

IN THE CIRCUIT/COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA

v.

Case Nos.: 2019-MM-002346A
2019-MM-002348A

ROBERT KRAFT,

Defendant.

**MEDIA INTERVENORS' SUPPLEMENTAL MEMORANDUM
OF LAW IN SUPPORT OF MOTION TO INTERVENE AND IN
OPPOSITION TO AMENDED MOTION FOR PROTECTIVE ORDER**

On March 26, 2019, the Media Intervenors¹ filed identical motions to intervene in both of the pending criminal cases against Mr. Kraft for the limited purpose of opposing a closure motion seeking a protective order restricting public access to various criminal investigative/intelligence records related to this matter (collectively, the "Motion to Intervene"). On March 28, 2019, Mr. Kraft filed an Amended Motion For Protective Order ("Amended Motion"),² asserting additional purported grounds to hide such records from the public. Additionally, on April 10, 2019, Mr. Kraft filed a memorandum of law in further support of his request to close public records (the "Kraft MOL"). To the extent not previously discussed in the Motion to Intervene, this Memorandum addresses the arguments set forth in the Amended Motion and the Kraft MOL.

¹ As more fully described in the initial Motions to Intervene, the Media Intervenors include: ABC, Inc; The Associated Press; ESPN, Inc.; Gannett Co., Inc.; GateHouse Media, LLC; The McClatchy Company; The New York Times Company; Orlando Sentinel Communications Company, LLC; Sun-Sentinel Company, LLC; and TEGNA.

² On April 10, 2019, Mr. Kraft filed a Second Amended Motion For Protective Order. That motion amended the certificate of service to the Amended Motion and is in all substantive respects the same as the Amended Motion.

The Amended Motion and Kraft MOL argue five grounds in support of non-disclosure: (1) the entirely conclusory assertion that any surveillance video depicting Mr. Kraft will be inadmissible at trial;³ (2) Mr. Kraft's Sixth Amendment right to a fair trial; (3) the court's authority to protect *witness* privacy under Florida Rule of Criminal Procedure 3.220(l); (4) Mr. Kraft's purported privacy interest in the video; and (5) that the active criminal investigative/intelligence exemption prohibits any disclosures. See Amended Motion at ¶¶ 1-3; see generally, Kraft MOL. These arguments, like those raised in Kraft's initial joint motion, are utterly without merit because: (1) whether a record is deemed admissible at trial has no bearing on its status as a public record under Florida's Public Record Act; (2) Mr. Kraft has failed to make (nor can he make) the required evidentiary showing that his right to a fair trial will be infringed by disclosure of any of the records at issue; (3) the cited criminal procedural rule does not protect a *criminal defendant's* purported right to privacy; (4) Mr. Kraft has no disclosural privacy right in the records at issue; and (5) the active criminal investigative/intelligence exemption cannot serve to permanently restrict access to public records, nor can it restrict access to information that is already public.

DISCUSSION

A. The News Media has Standing to Intervene

As an initial matter, it is well-settled Florida law that the news media has standing to intervene in a criminal or civil judicial proceeding where a motion at issue directly affects the public's right—and the right of the news media as the public's surrogate—to monitor the proceedings. See Miami Herald Publ'g Co. v. Lewis, 426 So. 2d 1, 4 (Fla. 1982) (“the news

³ On March 28, 2019, Mr. Kraft filed a Motion to Suppress any video recordings of him related to the Orchids of Asia spa investigation, along with any related evidentiary “fruits” purportedly resulting from those recordings.

media, even though not a party to litigation, has standing to question the validity of an order restricting publicity because its ability to gather news is directly impaired or curtailed.”); Miami Herald Publ’g Co. v. McIntosh, 340 So. 2d 904, 908 (Fla. 1976) (same); News-Press Publ’g Co., Inc. v. State, 345 So. 2d 865, 866 (Fla. 2d DCA 1977) (court properly permitted media to intervene in action involving request to seal depositions taken in a criminal case because the sealing order “ha[s] the practical effect of making it more difficult for the press to obtain information about the case which it may wish to publish”).

This access is critically important, as the Florida Supreme Court explained in Lewis:

Public access to the courts is an important part of the criminal justice system, as it promotes free discussion of governmental affairs by imparting a more complete understanding to the public of the judicial system. Such access gives the assurance that the proceedings were conducted fairly to all concerned. Aside from any beneficial consequences which flow from having open courts, the people have a right to know what occurs in the courts. The Supreme Court of the United States has noted repeatedly that a trial is a public event. What transpires in the courtroom is public property. Public access also serves as a check on corrupt practices by exposing the judicial process to public scrutiny and protects the rights of the accused to a fair trial. Finally, because participating lawyers, witnesses and judges know their conduct will be subject to public scrutiny, it is fair to conclude that they will be more conscientious in the performance of their roles.

Lewis, 426 So. 2d at 6-7 (citations omitted).

Lewis expressly held that “the news media must be given an opportunity to be heard on the question of closure prior to the court’s decision” and that the media has “the right to be notified that a motion for closure is under consideration.” Id.; see also Sarasota Herald-Tribune Co., Inc. v. Talley, 523 So. 2d 1163, 1163 (Fla. 2d DCA 1988) (“trial court departed from the essential requirements of law in issuing the order without prior notice and opportunity to be heard by at least one member of the media”).

Here, Mr. Kraft's motions for protective order seek a blanket ban on the dissemination of *any* materials related to his case, requesting that this Court preclude any party from sharing public records or court records with the media. These motions therefore directly impact the Media Intervenors' ability to access information, monitor, and report to the public about this criminal proceeding. As such, the Media Intervenors have standing to intervene in this matter and a right to have notice and to be heard at any hearing regarding the potential closure of hearings or limiting of access to records.

B. Potential Inadmissibility does not Justify Sealing Public Records

Mr. Kraft argues that the videos obtained by law enforcement depicting him at the Orchids of Asia spa (and related records) were obtained illegally in violation of constitutional and statutory proscriptions, and are therefore inadmissible and should be withheld from the public. See Amended Motion at ¶ 2; Kraft MOL at pp. 10-14. Tellingly, Mr. Kraft cites no legal authority to support the position that a record is not subject to public disclosure under the public records law if it would be inadmissible at trial. In fact, the law is to the contrary. See, e.g., Sjuts v. State, 750 So. 2d 732, 733 (Fla. 2d DCA 2000) (inadmissibility of a record does not control its use in criminal discovery). Indeed, the "inadmissibility of evidence has no bearing on whether ... evidence is or is not public record under Chapter 119." See State v. Houston, No. 13-CF-014443 (Fla. 13th Cir. July 17, 2014) (copy attached as **Exhibit A**).

Moreover, this Court has not yet made any rulings on whether the public records in question will be admissible at trial, so Mr. Kraft's claims of inadmissibility are speculative and premature at best. In fact, if this Court later holds a suppression hearing to determine the admissibility of certain evidence, that hearing will, itself, be presumptively open to the public. See Waller v. Georgia, 467 U.S. 39, 45-47 (1984); Lewis, 426 So. 2d at 8.

In the absence of any authority supporting his argument that criminal discovery can be withheld from the public based on its purported inadmissibility, Mr. Kraft must make a specific evidentiary showing to satisfy the three-prong test set forth in Florida Freedom Newspapers v. McCrary, 520 So. 2d 32 (Fla. 1988), and established in Lewis, 426 So. 2d 1. But, as noted above, he has failed to do so.

The McCrary test, which is more fully discussed below, requires more than a simple assertion that the information is inadmissible or even prejudicial. See, e.g., State v. Tiner, No. 92-228-CF (Fla. 8th Cir. Ct. Aug. 27, 1992) (“The test is not simply whether anything ‘prejudicial’ is contained in the State’s files; there is always prejudicial information about the defendant in the prosecution’s files”) (copy attached as **Exhibit B**); State v. Lugo, No. 06-CF-010169 (Fla. 13th Cir. Sept. 19, 2006) (potential inadmissibility of discovery is insufficient to warrant closure) (copy attached as **Exhibit C**). Rather, it requires a showing that the disclosure of information be so harmful that it would pose a serious and imminent threat to a defendant’s right to a fair trial. Accordingly, the potential admissibility of the evidence, without more, is not a sufficient basis for closure, and Mr. Kraft’s argument (even if ultimately successful) that the video recordings were obtained in violation of his Fourth Amendment rights is of no consequence. Given this, it is unnecessary to, as Mr. Kraft requests, enter even a temporary order restricting public access until the suppression issue is resolved.

C. Mr. Kraft’s Fair Trial Claim is Wholly Unsupported and Must be Rejected

Mr. Kraft’s Amended Motion argues that his right to a fair trial will be jeopardized if any criminal discovery is released to the public. See Amended Motion at ¶ 3; Kraft MOL at pp. 15-19. But, aside from generally recognizing that Mr. Kraft’s criminal case is of great public interest, the Amended Motion and Kraft MOL provide no support for this argument. Before

public records may properly be closed on fair trial grounds, this Court must specifically identify the factors that threaten the administration of justice and weigh all reasonable alternatives to mitigate the perceived threats. Only then and upon just cause, after development of a full record on these issues, may a court narrowly fashion a remedy that accommodates the public's interest alongside that of the criminal justice system.

Specifically, this Court must apply the three-part McCrary/Lewis test. McCrary, 520 So. 2d at 32; Lewis, 426 So. 2d 1. "A finding of cause to restrict or defer disclosure of such records cannot rest in air." McCrary, 520 So. 2d at 35. Such findings can only be made after a careful analysis of the following factors:

- a. Restricting public access to discovery material is necessary to prevent a serious and imminent threat to the administration of justice;
- b. No alternatives, other than a change of venue, would protect the defendant's right to a fair trial; and
- c. Closure would be effective in protecting the rights of the accused, without being broader than necessary to accomplish this purpose.

Lewis 426 So. 2d at 6; McCrary, 520 So. 2d at 35.

Even a temporary restriction on public access based on a defendant's fair trial rights must satisfy this strict standard. McCrary, 520 So. 2d at 35 (noting that a finding to "restrict or defer" disclosure of discovery must meet applicable standard). Orders temporarily restricting disclosure of discovery are not automatic. See State v. McTear, 37 Media L. Rep. 2209 (Fla. 13th Cir. Ct. June 17, 2009) (copy attached as **Exhibit D**); State v. King, Nos. 2008-CF-00936 NC, 2008-CF-01087 NC (Fla. 12th Cir. Ct. 2008) (copies attached as **Composite Exhibit E**); Tiner, No. 92-228-CF (**Exhibit B**).

The Amended Motion includes no evidentiary support whatsoever to justify closing the records at issue and, therefore, does not satisfy the exacting standard required by

McCrary/Lewis. The Kraft MOL fares no better because it essentially asserts nothing more than the high-profile nature of a proceeding that involves a sex crime. But a purported concern over pre-trial publicity alone will not suffice as it has been well-observed that publicity is a natural and inevitable result of topical criminal cases. See Rolling v. State, 695 So. 2d 278, 285 (Fla. 1997). Media attention alone has never been found a sufficient basis for secrecy. See, e.g., Provenzano v. State, 497 So. 2d 1177, 1182 (Fla. 1986) (nature of coverage—and not merely amount of coverage—determines whether news articles are inflammatory).

Mr. Kraft speculates that the jury pool will be so tainted if any video recordings are released. See Kraft MOL at p. 18. However, Florida courts routinely successfully seat juries in even the most high profile cases. For example, the Florida Supreme Court found that Gainesville serial killer Danny Rolling was not prejudiced by extensive pretrial publicity. Rolling, 695 So. 2d at 286. Likewise, in reviewing confessed serial killer Theodore “Ted” Bundy’s *habeas corpus* petition, the Eleventh Circuit refused to find prejudice despite the massive volume of publicity because the material was not infected with hostility. Bundy v. Dugger, 850 F.2d 1402, 1425 (11th Cir. 1988). Courts also reject the argument that simply because news coverage has occurred, jurors cannot be impartial. See, e.g., McTear, 37 Media L. Rep. 2209 (**Exhibit D**). In so holding, Judge Holder found that pre-trial media coverage may indeed have no effect on fair trial rights, and even if it did impact some potential jurors, the Court can take steps to ensure those individuals are not seated:

At this point in these proceedings, it is premature to characterize the current adverse publicity as a serious and imminent threat to the administration of justice. It has not been shown that Defendant's right to a fair trial is in any reasonable way threatened by the reports surrounding the trial and the parties. The argument that members of the public will lack impartiality due to the existence of adverse reports in the news is not compelling. Moreover, this Court has the responsibility to ensure the fundamental fairness of these proceedings and possesses the inherent authority to take any means necessary to ensure such fairness.

For some members of the public, these matters are an important event and are worthy of public discussion. This does not imply the partiality of these individuals; merely their interest and their absolute right to be informed of these proceedings and this process. For others in the community, the events giving rise to this case may have been noted and dismissed. And yet, for some members of the community, even these reports noted by the Defendant, have drawn no interest or attention. Ignorance of such publicity may yet ensure their impartiality. Testing the impartiality of potential jurors in this case is ultimately best left to the process of voir dire. The fact that new evidence or opinions can be expected to arise during the discovery process does not militate against this conclusion. Further, it is axiomatic that this case will not reach trial in the near future due to the protracted nature of discovery and pretrial matters in cases carrying even the potential of the ultimate penalty.

Id. at 1211.

Mr. Kraft also emphasizes the heightened media interest this case has generally garnered. See Kraft MOL at p. 16. In support, he cites two factual accounts of the charges against him (press conferences with government officials, acknowledging the charges against him and how spas such as the Orchids of Asia Day Spa can foster sex trafficking). See id. It is just this type of factual reporting courts have found does not prejudice a defendant. See Provenzano, 497 So. 2d at 1182. Thus, the mere fact that this matter has received considerable news coverage does not support the conclusion that such coverage has been hostile or prejudicial and that closure is warranted. Jurors need not be totally ignorant of the facts of the case; they need only be free from any preconceived notion. Rolling, 695 So. 2d at 285. In this regard, publicity only impacts a defendant's rights when it is so hostile and inflammatory, and comes at such a crucial time in the life of the proceeding, that the publicity itself dictates the community's opinion as to guilt or innocence. Mr. Kraft makes no showing whatsoever in the Amended Motion or the Kraft MOL that publicity has been so pervasive and antagonistic as to justify closure.

Even assuming, for the sake of discussion only, that Mr. Kraft could make the requisite showing of prejudice (which he has not done), there has been no actual showing by Mr. Kraft

that less restrictive alternatives to closure would be insufficient to protect his fair trial rights. Stern instructions to the jury as to their sworn duty to decide the issues based only upon the evidence, sequestration of the jurors, selecting jurors from a large panel, and careful, individualized *voir dire* are all available, viable alternatives to a change of venue that can adequately protect fair trial rights. Neb. Press Ass'n v Stuart, 427 U.S. 539, 563-64 (1976); Lewis, 426 So. 2d at 8; Rolling, 695 So. 2d at 285.

Finally, any order restricting public access to discovery must be effective to protect fair trial rights, without being broader than necessary to accomplish this purpose. Lewis, 426 So. 2d at 6. A large amount of information about this highly newsworthy case already has been published.⁴ This includes detailed descriptions of Mr. Kraft's sexual activities at the Orchids of

⁴ Below is a sample of the coverage of Kraft and the alleged human trafficking:

John Pacenti, *Robert Kraft: Patriots owner among those charged with soliciting prostitutes as part of alleged human trafficking ring*, THE PALM BEACH POST, Feb. 25, 2019, <https://www.palmbeachpost.com/news/20190222/robert-kraft-patriots-owner-among-those-charged-with-soliciting-prostitutes-as-part-of-alleged-human-trafficking-ring>;

Jason Hanna, *New England Patriots owner Robert Kraft accused of soliciting sex, police say*, CNN, Feb. 23, 2019, <https://www.cnn.com/2019/02/22/us/robert-kraft-solicitation/index.html>;

Read the affidavits in the Robert Kraft case (warning: explicit language), THE BOSTON GLOBE, Feb. 25, 2019, <https://www.bostonglobe.com/metro/2019/02/25/read-affadavits-robert-kraft-case-warning-explicit-language/Nvyeo7IcmVCLDo2EVHCWFK/story.html>;

Marc Freeman, *Florida sex sting: What's next for Patriots owner Robert Kraft after pleading not guilty?*, THE SUN-SENTINEL, Mar. 26, 2019, <https://www.sun-sentinel.com/local/palm-beach/fl-ne-cb-day-spa-crackdown-whats-next-20190326-story.html>;

AP Investigation: Florida Gets Tougher on Massage-Parlor Sex, THE NEW YORK TIMES, Mar. 30, 2019, <https://www.nytimes.com/aponline/2019/03/30/us/ap-us-massage-parlors-light-sentences.html>;

Asia spa as set forth in publicly-released probable cause affidavits and arrest affidavits.⁵ Mr. Kraft even acknowledges that the “substance of [the videos] is already purportedly described in publicly available documents.” See Kraft MOL at p. 17. As the Florida Supreme Court noted in Lewis, if information already has been made public, “there would be little justification for closing a pretrial hearing in order to prevent only the disclosure of details which had already been publicized.” Id. at 8; see also Staton v. McMillan, 597 So. 2d 940, 941 (Fla. 1st DCA 1992) (statutory exemptions do not apply if the information has already been made public). Similarly, in this case, to the extent that information already has been made public, closure of such details would be unnecessary and, consequently, not effective.

In sum, Mr. Kraft has failed to demonstrate any prejudice to his fair trial rights or, even assuming prejudice, that alternatives in jury selection and instruction would be insufficient in this case, or that restricting information would have any prophylactic effect.

Doha Madani, et al., *Robert Kraft, others seek to block release of surveillance video in prostitution case*, NBC NEWS, Mar. 20, 2019, <https://www.nbcnews.com/news/us-news/robert-kraft-others-seek-block-release-surveillance-video-prostitution-arrests-n985486>;

Julius Whigham, *Robert Kraft: Patriots owner ‘truly sorry’ over charges in Jupiter spa probe*, THE PALM BEACH POST Mar. 23, 2019, <https://www.palmbeachpost.com/news/20190323/robert-kraft-patriots-owner-truly-sorry-over-charges-in-jupiter-spa-probe>;

Ken Belson, *Robert Kraft Refusing to Accept Deal to Drop Charges of Soliciting Prostitution*, THE NEW YORK TIMES, Mar. 22, 2019, <https://www.nytimes.com/2019/03/22/sports/robert-kraft-prostitution.html>; and

Kraft arrest shows how Florida has become nexus of sex trafficking, FOX NEWS, Mar. 5, 2019, <https://www.foxnews.com/us/kraft-arrest-shows-how-florida-has-become-nexus-of-sex-trafficking>.

⁵ See attached **Exhibit F** (Arrest Affidavit of Robert Kraft) and **Exhibit G** (Arrest Affidavit of Hua Zhang/President of Orchids of Asia Day Spa). In **Exhibit G**, Mr. Kraft is identified as “Male 8” and “Male 13” on pages 8 and 9, respectively.

D. Privacy Concerns Do Not Prevent Disclosure

Finally, the Amended Motion and Kraft MOL make two related arguments regarding Mr. Kraft's purported privacy rights⁶ in the surveillance records. Both fail.

Mr. Kraft first wrongly asserts that Florida Rule of Criminal 3.220(l) provides a basis for him, a criminal defendant, to have records closed on privacy grounds. That plain language of the rule expressly says otherwise. Rule 3.220(l) states, in pertinent part:

On a showing of good cause, the court shall at any time order that specified disclosures be restricted, deferred, or exempted from discovery, that certain matters not be inquired into, that the scope of the deposition be limited to certain matters, that a deposition be sealed and after being sealed be opened only by order of the court, or make such other order as is appropriate to protect a witness from harassment, unnecessary inconvenience, or invasion of privacy, including prohibiting the taking of a deposition. All material and information to which a party is entitled, however, must be disclosed in time to permit the party to make beneficial use of it.

Fla. R. Cr. P. 3.220(l)(1) (emphasis added).

By its plain terms, this rule is not intended to protect a criminal defendant's purported privacy rights. Indeed, courts in Martin County, Florida have recently denied motions for protective orders filed by numerous defendants arrested in connection with the same investigation into local spas. Their motions sought essentially the same relief as that requested herein. Notably, the court orders explained that Rule 3.220(l) "protects a **witness**" and that, in a criminal case, "[b]y definition, the Defendant is a named party to the action, not merely a witness." See representative examples at **Composite Exhibit H**, "Order Denying Motion for Protective Order" signed by Judge Kathleen H. Roberts, Apr. 2, 2019 (emphasis in original) in

⁶ The Media Intervenors also addressed the erroneous argument that Mr. Kraft has a privacy right in the criminal discovery at issue, and how that purported right is of no consequence when considering access under the public records law, in their initial Motion to Intervene. See Motion to Intervene at 10-11.

Allan and *Schamback* cases; “Order on Motion for Protective Order” signed by Judge Darren Steele, Apr. 3, 2019 in *Marshall* case.⁷

This, of course, comports with well-settled case law holding that those who participate in criminal activity cannot later claim a privacy right in records documenting such activity. See Post-Newsweek Stations, Fla., Inc. v. Doe, 612 So. 2d 549, 552-53 (Fla. 1992) (“Any right of privacy that the Does might have is limited by the circumstances under which they assert that right . . . Because the Does’ privacy rights are not implicated when they participate in a crime, we find that closure is not justified under *Barron*.”). Notably, Post-Newsweek dealt with the privacy rights of non-parties whose names appeared in records related to a prostitution prosecution. But Mr. Kraft improperly seeks to re-cast Post-Newsweek as a ruling addressing purported privacy rights of *actual defendants* and how they should be weighed against public disclosure. See Kraft MOL at pp. 9, 11, 13. That is not the case as the quotations cited by Mr. Kraft relate solely to potential privacy considerations of non-parties. See Post-Newsweek, 612 So. 2d at 553.

In this case, Mr. Kraft’s purported privacy rights, as a charged defendant, are even more diminished than those of a non-party. Courts have rejected generalized concerns over a *party’s* purported right to privacy in seeking to exclude electronic media from Florida courtrooms. See In Re Petition of Post-Newsweek Stations, Fla., Inc., 370 So. 2d 764, 779 (Fla. 1979) (“a judicial proceeding, subject to certain limited exceptions, is a public event which by its very nature denies certain aspects of privacy” and “there is no constitutionally recognized right of privacy in the context of a judicial proceeding.”). Even after Florida adopted a state constitutional right of privacy, the Florida Supreme Court held that right could only possibly form the basis of a court

⁷ Identical or similar orders have been entered by Judges Steele and Roberts in numerous cases.

closure argument “to avoid substantial injury to a party by disclosure of matters . . . not generally inherent in the specific type of civil proceeding sought to be closed.” See Barron v. Fla. Freedom Newspapers, Inc., 531 So. 2d 113, 118 (Fla. 1988).⁸ The Barron court ultimately held that certain medical information of a party filed in a divorce proceeding should not remain under seal because the information was inherently linked to the trial court’s adjudication of issues including alimony, child support, and property dispositions. See id. at 119. Mr. Kraft offers Barron for the proposition that court records and proceedings can be closed to protect personal privacy (see Kraft MOL at p. 13) but ignores the main thrust of Barron: one cannot claim a privacy interest in material that is inherently related to the proceeding.⁹

In this case, Mr. Kraft stands charged with two counts of solicitation of prostitution, and the records he seeks to shield from public view go to the heart of the criminal prosecution against him. The law is clear that he simply has no privacy rights in such information.

E. Mr. Kraft Misconstrues the News Media’s Arguments Regarding Application of the Active Criminal Investigative/Intelligence Exemption

In this final section, the Media Intervenors briefly address certain supplemental points raised by Mr. Kraft in the Kraft MOL regarding application of the active criminal investigation/intelligence exemption. See Kraft MOL at pp. 3-8.

⁸ The right to privacy found in the Florida Constitution is subordinate to the public’s right of access to public records and meetings. See Art. I, § 23, Fla. Const. (“This section shall not be construed to limit the public’s right of access to public records and meetings as provided by law.”). Barron also pre-dates Florida’s adoption of Article 1, Section 24, which establishes a constitutional right to public records and meetings.

⁹ Mr. Kraft’s reliance on Williams v. City of Minneola, 575 So. 2d 683, 687 (Fla. 5th DCA 1991) (see Kraft MOL at p. 14) is equally misplaced. That case does not support any argument that there is an exception to well-established (and conceded) law that Florida’s constitutional right of privacy is subordinate to the constitutional right of access. Mr. Kraft’s quotation from Williams, taken in full context, makes plain that while no constitutional right of privacy in public records existed, a records custodian may possibly be held liable under tort privacy common law theories for the gratuitous disclosure of autopsy photographs that were not specifically requested under the Public Records Act.

First, Mr. Kraft misconstrues the Media Intervenors' argument that once a case is no longer active or information is produced or required to be produced to a defendant in discovery, the active criminal investigative/intelligence exemption cannot be asserted. The Media Intervenors raise these uncontroverted points of law to emphasize that the exemption cannot form the basis for any *permanent* restriction and to the extent any discovery disclosures to Mr. Kraft are foreseeable in the near future it would serve no purpose to enter a protective order.

Second, waiver of the exemption has in fact already occurred in this case. Mr. Kraft concedes on page 17 of the Kraft MOL that the substance of the video has already been publicly disclosed. Thus, his reliance on City of Miami v. Post-Newsweek Stations Fla., Inc. is misplaced. In that case, the court rejected an active criminal exemption waiver argument, finding that a "brief remark" about the nature and size of an injury found in a police incident report does not equate to a "ten-page detailed written statement and the close-up photograph of the injury." See City of Miami v. Post-Newsweek Stations Fla., Inc., 837 So. 2d 1002, 1004-05 (Fla. 3d DCA 2002). Here, by contrast, Mr. Kraft's alleged actions are precisely and extensively detailed in the publicly-available probably cause affidavits. See Exhibits F and G.

Finally, Mr. Kraft argues that an additional criminal investigative exemption designed to protect images of *victims* of sexual offenses serves as additional grounds for a protective order. See Kraft MOL at pp. 8-9. This argument is also flawed. By its express language, the cited exemption does nothing to shield video images of Mr. Kraft himself (or any other defendant similarly charged). Further, to the extent any portions of video recordings at issue contain body images of victims of sexual offenses that qualify for exemption, only those portions of a video can be redacted and/or pixelated, with the remainder made publicly available.

CONCLUSION

In summary, the Mr. Kraft is not entitled to shield records from public scrutiny in this case of significant concern for any of the reasons proffered in his Amended Motion. The Amended Motion accordingly should be denied.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **11th** day of **April, 2019** a true and correct copy of the foregoing has been e-filed via the Florida Court's E-Filing Portal and served via the portal upon all parties and counsel of record.

/s/ Dana J. McElroy
Attorney

EXHIBIT A

NOT A CERTIFIED COPY

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
FOR HILLSBOROUGH COUNTY, FLORIDA
CRIMINAL JUSTICE DIVISION

STATE OF FLORIDA

CASE NO: 13-CF-014443

v.

LAJOYCE HOUSTON,

DIVISION: C

ORDER GRANTING, IN PART, AND DENYING, IN PART, DEFENDANT'S AMENDED
MOTION FOR PROTECTIVE ORDER AND IN CAMERA REVIEW OF A) FEBRUARY
24, 2014 SWORN STATEMENT OF THE DEFENDANT AND B) JAIL MONITORED
PHONE CALLS BETWEEN THE DEFENDANT AND CO-DEFENDANT

THIS MATTER came before the Court on the *Defendant's Motion for Protective Order* filed through counsel on June 24, 2014; and the *Defendant's Amended Motion for Protective Order and Request for Judicial Notice and In Camera Review* filed July 7, 2014 and the *Motion to Intervene for the Limited Purpose of Opposing the Defendant's Motion for Protective Order* filed by Media General Operations, Inc., through counsel on July 9, 2014. On July 16, 2014, the Court conducted a hearing on the Defendant's Motion(s) after orally granting the *Motion to Intervene* on behalf of Media General Operations, Inc. (hereinafter, the "Media.") The Court, after considering the Motions, arguments of counsel for Defendant and the Media (the State having taken no position as to these issues), as well as the applicable rules, statutes, and case law, the court file and record, and being otherwise fully advised in the premises, hereby finds as follows:

The Defendant argues primarily that the statement is exempt from "public record" under Florida Statutes 119.071(2)(c) as the "substance of a confession of a person arrested." She also argues that the statement should not be disclosed since it is inadmissible at trial as it was made pursuant to discussion of potential resolution of the case under Florida Statutes 90.410. She also argues that dissemination and disclosure of the statement should be prohibited because it would pose a serious and imminent threat to her due process rights; depriving her of the ability to receive

a fair trial in Hillsborough County, Florida, based on the extensive media attention this case has received thus far.

The Defendant makes the same arguments regarding deprivation of a fair trial regarding the jail calls made between the Defendant and co-defendant; and alleges that parts of those calls may also be considered a “confession” pursuant to Florida Statutes 119.071(2)(e).

Discovery materials in the possession of the State become available for public distribution pursuant to chapter 119, Florida Statutes, when furnished to Defendant. *Satz v. Blankenship*, 407 So. 2d 396 (Fla. 4th DCA 1981). In reviewing the Motions, the Court has considered the factors set forth in *Miami Herald Publishing Co. v. Lewis*, 426 So.2d 1 (Fla. 1983), including:

(1) whether such restriction is necessary to prevent a serious and imminent threat to the administration of justice; (2) whether there are other alternatives available other than a change of venue which would protect a defendant’s right to fair trial; and (3) whether such restriction would be effective in protecting the rights of the accused. *See Florida Freedom Newspapers, Inc. v. McCrary*, 520 So.2d 32, 35 (Fla. 1988) (holding “the factors set out in *Lewis* are relevant to a finding of cause and should be considered in determining whether public access to a judicial public record should be restricted or deferred”). Moreover, by the authority in Florida Rules of Criminal Procedure 3.220 (l) and (m), this Court can restrict or defer specified disclosures during discovery and exempt them temporarily from public disclosure upon a showing of good cause.

**CLAIM OF INADMISSIBILITY AS EVIDENCE OF STATEMENT
TAKEN IN THE FURTHERANCE OF PLEA NEGOTIATIONS (F.S. 90.410)**

The Court finds that the statement taken on February 24, 2014, was clearly made in the course of plea negotiations; specifically, in an attempt to show the Defendant’s cooperation and/or her involvement or lack thereof in the charged offenses, so that the State might consider her for participation in a pre-trial diversion program; and, as such, would be inadmissible at trial.

However, inadmissibility of evidence has no bearing on whether this evidence is or is not public record under Chapter 119.

The legislature has specifically exempted from the public record certain items for various public policy reasons. (See, for example, F.S. 119.071, F.S. § 406.135 [Autopsies; confidentiality of photographs and video and audio recordings]; F.S. § 406.136 [A photograph or video or audio recording that depicts or records the killing of a person].) Those items are, generally, admissible at trial.

Additionally, there exists a plethora of other types of evidence that are *not* admissible at trial; yet the legislature has *not* provided that they are exempt from public disclosure (See, for example: privileged statements pursuant to F.S. § 502.1, 503.1, 503.7, 504.1, etc.; polygraph examinations¹; prior bad acts and/or prior record of a non-testifying defendant.)

This Court is cognizant of the significance of the public policy arguments the Defendant raises as an additional reason for non-closure: primarily the chilling effect that dissemination of such statements would and will have upon the plea negotiation process that exists and allows our criminal justice system to function. However, that consideration is not a part of the analysis this Court is required -- or allowed -- to make pursuant to the mandates of *Lewis* and *McCrory*. Simply put, the decision to exempt from public record, any particular matter for public policy reasons, rests with the legislature, not with this Court.

CLAIM FOR PROTECTIVE ORDER FOR STATEMENT AND JAIL CALLS IN THEIR ENTIRETY

In reviewing the Motion(s) and exhibits offered by the parties, this Court has carefully considered and balanced the factors set forth in *Lewis/McCrory*. At this point in these proceedings, it is premature to characterize the current adverse publicity as a serious and imminent threat to the administration of justice. The Defendant and the Media disagree about the amount and nature of the publicity itself; however, even massive pretrial publicity (which the Court doubts applies in this case) is not enough to show a serious and imminent threat to the administration of justice or the denial of a fair trial. *Provenzano v. State*, 497 So.2d 1177 (Fla. 1986); *Bundy v.*

¹ See *Wisner v. City of Tampa Police Dep't*, 601 So.2d 296 (Fla. 2d DCA 1992); *Downs v. Austin*, 522 So.2d 931 (Fla. 1st DCA 1988.)

State, 471 So.2d 9 (Fla. 1985.) It has not been shown that the Defendant's right to a fair trial is in any way threatened by the reports surrounding these proceedings. The Defendant has not pointed to any specific examples in any of the media reports that were "hostile or inflammatory" (rather than a mere reporting of factual events) that would warrant a protective order at this time.

It is clear that alternatives exist that would ensure the Defendant receives a fair and impartial trial. Testing the impartiality of potential jurors in this case is ultimately best left to the process of voir dire; and both sides can and will be given wide latitude when it comes to the exercise of cause challenges based upon knowledge of the facts of the case. Liberally excusing potential jurors who have any prior knowledge of the facts of the case, and/or have formed an opinion about the guilt of the Defendant would be effective in protecting the rights of the Defendant to obtain a fair trial in this matter.

Additionally, those rights can additionally be protected by the exclusion from disclosure of any portions of the Statement that would fall under the "confession" exemption from public record, and this Court intends to do just that.

APPLICATION OF F.S. 119.071(2)(e) TO THE STATEMENT

The court has conducted an in camera review of the Statement, and applied the *Lewis/McCrary* test to the requested redacted portions. Additionally the Court has analyzed those requested portions in light of the elements of the offenses with which the Defendant is charged (F.S. 414.39(2) and F.S. 812.014(2)(c)1) to determine whether certain portions constitute a "confession", as contemplated by *Times Publ'g Co. v. State*, 827 So.2d 1040 (Fla. 2d DCA 2002); *Louette v. State*, 12 So.2d 168 (Fla. 1943), *Bates v. State*, 84 So. 373 (Fla. 1919) and Attorney General's Opinion Fla. 84-33 (1984.) The Court finds that the following material² meets that definition of "confession" and thus may not be released pursuant to section 119.071(2)(e):

² The Court was provided a copy of the Statement from the defense, pursuant to its Order in Court, with specific redactions requested pursuant to 119.071(2)(e). Those sections were highlighted in YELLOW. This Court's Order of Non-Disclosure listed below, has the Court's specific redactions highlight in PINK. Both the Defense and State will be given a color copy of that document; the original will be filed under seal as an exhibit to this Order.

Page 28	lines 1-8 and 21-25
Page 29	lines 1-25
Page 30	lines 1-6 and 15-25
Page 31	lines 1-4, 8-25
Page 32	lines 1-25
Page 33	lines 1-25
Page 34	lines 1-12, 17-20, 24-25
Page 35	lines 1-18
Page 36	lines 1-4; 9-12; 20-25
Page 37	lines 6-25
Page 38	lines 1-3
Page 39	lines 8-25.

The Court **RESERVES RULING** as to the portion of the Defendant's Motion relating to the jail calls and the Court **SHALL REVIEW IN-CAMERA** the jail calls that have not yet been submitted to this Court and **SHALL DETERMINE** what materials may not be released pursuant to Chapter 119, Florida Statutes, and/or should be withheld from public disclosure.

DONE AND ORDERED in Chambers, at Tampa, in Hillsborough County, Florida, this
____ day of July, 2014.

SAMANTHA L. WARD
Circuit Judge

ORIGINAL SIGNED
CONFORMED COPY

JUL 17 2014

SAMANTHA L. WARD
CIRCUIT JUDGE

Copies furnished to:

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Lyann Goudie, Attorney for Defendant Houston, lyann@goudiekohnlaw.com

Gregg D. Thomas, Attorney for Media General Operations Inc., gthomas@tlolawfirm.com

Ralph Fernandez, Attorney for Co-Defendant Girven, ralph@refernandezlaw.com

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EXHIBIT B

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IN THE CIRCUIT COURT FOR THE EIGHTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR
LEVY COUNTY
CRIMINAL DIVISION

STATE OF FLORIDA,

Plaintiff,

CASE NO. 92-228-CF

VS.

DAVID TINER,

Defendant.

ORDER DENYING TINER'S MOTION TO PROHIBIT
PUBLIC DISCLOSURE OF INFORMATION AND MATERIAL

On Friday, June 12, 1992, Defendant David Tiner's ("Tiner") Motion to Prohibit Disclosure of Information and Material was heard. At the same time, the Gainesville Sun Publishing Company's ("Gainesville Sun") motion to intervene was also heard. There was no objection from counsel for Tiner or the State to the Gainesville Sun's motion to intervene and it was, consequently, GRANTED.

The Court heard argument by counsel for Tiner, counsel for the Gainesville Sun and the State concerning Tiner's motion. The Court reviewed Tiner's motion, the Gainesville Sun's memorandum in opposition to Tiner's motion, the news articles attached to the Gainesville Sun's memorandum and the additional articles introduced into evidence at the hearing by counsel for Tiner. A total of 17 news articles was introduced. The Court has also reviewed the case file, the other materials introduced by Tiner at the hearing, and is otherwise advised in the matter.

In the motion, Tiner requests this Court enter an order prohibiting members of the State Attorney's Office, the Florida

Game and Fresh Water Fish Commission, the Levy County Sheriff's Department and the Florida Department of Law Enforcement from commenting on the facts and alleged facts surrounding the boating accident underlying the charges against Tiner; prohibiting the disclosure of public records provided to the defense in the course of discovery; and closing discovery depositions. During the course of the hearing, Tiner argued that the most troublesome information released to the media was that released by the Florida Game and Fresh Water Fish Commission concerning Tiner's alleged blood alcohol level at the time of the boating accident, and witnesses' statements about the positions of the boats. Tiner also anticipates that the State will obtain expert reports relating to, among other things, reconstruction of the boating accident.

The Gainesville Sun conceded that Palm Beach Newspapers, Inc. v. Burk, 504 So.2d 378 (Fla. 1987), controlled access to discovery depositions. The Gainesville Sun does not assert any right to attend the depositions. If transcripts are filed, however, the Gainesville Sun asserts that the right of access attaches. Id. at 384.

The primary issues asserted by Tiner involve the issuance of a gag order prohibiting the State Attorney's Office and law enforcement from discussing this case, and the issuance of an order sealing all discovery documents. Florida Freedom Newspapers, Inc. v. McCrary, 520 So.2d 32 (Fla. 1988), controls the resolution of these issues. Based on McCrary, the Court

denies Tiner's requests. Many of the statements contained in the news articles about which Tiner complains were made by non-law enforcement witnesses. Any gag order on the State Attorney's Office and law enforcement would do nothing to control statements made by such witnesses. Tiner does not request, nor will this Court enter a gag order restraining non-law enforcement witnesses from discussing the facts of this case. McCrary, 520 So.2d at 33.

Tiner next complains about the blood alcohol information released by the Florida Game and Fresh Water Fish Commission because that release technically violates Rule 4-3.6(b)(3) of the Florida Rules of Professional Conduct. The public is not unmindful that a person who is arrested for impairment in the operation of motor vehicles or boats are administered tests. Nor is the public unaware of the problem of the intoxicated operators of vehicles. The public understands that there are certain permissible alcohol levels under Florida law and is so informed regularly by public information announcements on television. Moreover, the mere fact that an individual is arrested and charged with an offense involving impairment permits the public to draw a logical inference that the State has some evidence to support a charge that the individual was intoxicated while driving a boat. Consequently, the Florida Game and Fresh Water Fish Commission's release of Tiner's alleged blood alcohol level did not add much new information to the public's awareness of the

State's position that Tiner was above the legal blood alcohol level.

Finally, the information concerning the blood alcohol test has already been released to the public. This Court cannot prohibit the public or the media from publishing that information. See Nebraska Press Association v. Stuart, 427 U.S. 539 (1976). The Court, however, admonishes the State and law enforcement to abide by the Florida Rules of Professional Conduct.

Tiner next complains that all discovery information should be inspected by the defense before being released to the public under the Florida Public Records Act, Chapter 119, Florida Statutes (1991). See §119.011(3)(c)5., Fla. Stat. (1991). Tiner also anticipates the future release of expert witness reports, mainly concerning reconstruction of the boating accident. Tiner urges this Court to fashion a remedy prohibiting the release of any reports reconstructing the accident. Information about how the vehicles were operated and their locations, however, is already in the public domain. Witnesses have already made statements about the particular positions of the vehicles. The bulk of any information that will be contained in such a report is, therefore, already in the public domain. Accordingly, the Court refuses to prohibit disclosure of reports provided or exchanged between the parties.

This Court recently entered orders in State v. Rolling and State v. Davis, controlling the discovery process. In Rolling,

which involved thousands of documents in the intensely publicized Gainesville co-ed killings prosecution, the Court permitted the defense to review pretrial discovery in order to file motions for closure related to any particularly sensitive information. Davis warranted this Court's supervision of discovery because of the extensive publicity attendant to that prosecution which involved two homicides following on the heels of the Gainesville homicides. Tiner urges this Court to accord him the same treatment as Rolling and Davis. This case, however, is not of the magnitude of those cases. It has not garnered the attention of either of those cases. This matter does not warrant deviation from the general disclosure requirements of the Public Records Act. The test is not simply whether anything "prejudicial" is contained in the State's files; there is always prejudicial information about the defendant in the prosecution's files. In short, no extraordinary procedures are warranted here.

The tacit assumption underlying all cases like this one where gag orders and discovery closure orders are requested is that the potential juror who has learned of the case via the media cannot be a fair juror. In the twelve years the Court has been empaneling juries, the Court has yet been unable to pick a fair jury because of pretrial publicity.

This is the branch of government the public does not experience as closely as the legislative and executive branches. But this branch is the third branch of government equally subject to public oversight. The public has a right to be present and

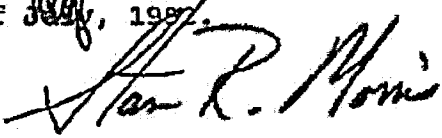
the press often functions as the public's surrogate in exercising this right.

It is the duty of this Court to balance the right of the public to access and government oversight against Tiner's right to a fair trial. If necessary, this Court will resort to alternative methods, short of closure, to ensure a fair, impartial trial. Tiner's motion is denied to the extent he seeks a broad gag order and closure of pretrial discovery.

It is, therefore, ORDERED and ADJUDGED:

1. The Gainesville Sun's motion to intervene is GRANTED.
2. There is no right of access to attend any discovery depositions. If any transcripts are filed, however, the right of access attaches.
3. The State is admonished, and is charged with the responsibility of admonishing law enforcement, to follow the Florida Rules of Professional Conduct, specifically Rule 4-3.6.
4. The State shall disclose any discovery materials as provided in the Public Records Act. The State shall not, however, disclose any records expressly exempted from disclosure under the Public Records Act.
5. Tiner's Motion to Prohibit Public Disclosure of Information and Material is otherwise DENIED.

DONE and ORDERED in chambers at Bronson, Levy County, Florida, this 27 day of July, 1997.


STAN R. MORRIS
Circuit Judge

Copies to:

Robert Moeller, Esq.
Joseph E. Smith, Esq.
Carol Jean LoCicero, Esq.

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TPA-57976.2/35071-20

EXHIBIT C

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IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CRIMINAL JUSTICE AND TRIAL DIVISION

STATE OF FLORIDA

CASE NO.: 06-CF-010169

v.

MICHAEL LUGO,
Defendant.

DIVISION: A

FILED
CLERK OF COURT
HILLSBOROUGH COUNTY
2006 SEP 19 PM 3:19
JULIA S. GARCIA, CLERK

**ORDER DENYING DEFENDANT MICHAEL LUGO'S MOTION TO CLOSE
DISCOVERY DOCUMENTS AND GRANTING TIMES PUBLISHING COMPANY'S
MOTION TO INTERVENE AND FOR ACCESS TO PUBLIC RECORDS**

THIS CAUSE came to be heard upon the Defendant Michael Lugo's Motion to Close Discovery Documents, filed on August 29, 2006, Media General Operation, Inc.'s Motion to Intervene for the Limited Purpose of Opposing the Defendant's Motion for Closure of Discovery Documents and Request for Immediate Hearing, filed on September 8, 2006, and Memorandum of Law in Opposition to Defendant's Motion to Close Discovery Documents, filed on September 13, 2006, and Times Publishing Company's Motion to Intervene and for Access to Public Records, filed on September 8, 2006. On September 18, 2006, the Court conducted a hearing on Defendant's Motion as well as the intervening motions filed on behalf of Media General Operation, Inc. and The Times Publishing Company. Prior to the hearing, this Court conducted an in camera review of all evidence to which Defendant request closure. The Court, after considering the Motions, evidence received, arguments of counsel for Defendant, The Times Publishing Company, and Media General Operations Inc., as well as the applicable rules, statutes, and case law, the Court's file, and record, and being otherwise fully advised in the premises, hereby finds as follows:

The Defendant, Michael Lugo, is charged with RICO Violation (count one), RICO (Conspiracy or Endeavor) (count two), Kidnapping (Possess Firearm) (count three), Aggravated Battery (Great Bodily Harm or Deadly) (count four), and Aggravated Assault (Firearm Possess) (count five).

In his Motion, the Defendant alleges that continued local media coverage, spanning central and western Florida, will be prejudicial and threatens his right to a fair trial. Specifically, Defendant alleges that the admissibility of a wiretapped recording ("recording") of the alleged incident that forms the basis for Defendant's charges may be in question; therefore, the Defendant seeks to prevent the disclosure of such recording to the media, until such time as the defense can determine whether or not they will seek to have the recording suppressed and the Court makes a determination as to the admissibility of the recording.

Media General Operations, Inc., d/b/a *The Tampa Tribune* and WFLA-TV News Channel 8 and Times Publishing Company, publisher of the *St. Petersburg Times* intervened to oppose the Defendant's Motion. They argue that the recording is a public record.

On September 1, 2006, the Court entered an Order Granting Media General Operations, Inc.'s Motion to Intervene for the Limited Purpose of Opposing the Defendant's Motion for Closure of Discovery Documents and Request for Immediate Hearing. As to Times Publishing Company's Motion to Intervene and for Access to Public Records, the Court finds that Times Publishing Company has standing to intervene and the right to be heard on Defendant's Motion. See Miami Herald Publishing Co. v. McIntosh, 340 So. 2d 904 (Fla. 1977) (recognizing the media's standing to question the validity of an order restricting publicity where its ability to gather news is impaired by such order).

In reviewing Defendant's Motion, the Court finds that the Defendant must demonstrate: 1) whether such closure is necessary to prevent a serious and imminent threat to the administration of justice; 2) whether there are other alternatives available, other than a change of venue, which would protect a defendant's right to a fair trial; and 3) whether such closure would be effective in protecting the rights of the accused. See Miami Herald Publishing Co. v. Lewis, 426 So. 2d 1 (Fla. 1983); see also Florida Freedom Newspapers, Inc. v. McCrary, 520 So. 2d 32 (Fla. 1988). The Defendant must prove the factors set forth in Lewis by the greater weight of the evidence. See Wesh Television, Inc. v. Freeman, 691 So. 2d 532 (Fla. 5th DCA 1997).

The evidence presented by the Defendant in support of closure consisted of ten (10) newspaper articles on the alleged incidents in this case. A review of the evidence reflects that Defendant's name is briefly mentioned in approximately six (6) of the articles, along with the names of the other numerous defendant's in this case. (See Defendant's Composite Exhibit in Support of Motion to Close Discovery, attached).

Furthermore, at the evidentiary hearing, held on September 18, 2006, the Defendant's attorney requested that the Court grant Defendant's Motion until such time as the defense can determine whether or not they will seek to have the recording suppressed and the Court makes a determination as to the admissibility of the recording. The need to examine evidence for its admissibility is not one of the prongs set forth in Lewis, and is not sufficient to justify closure of the recording from the media.

The Court finds that the Defendant has failed to carry his burden of demonstrating that closure is necessary to prevent a serious and imminent threat to the administration of justice and that closure is necessary to achieve the Court's purpose of guaranteeing the Defendant a fair and impartial jury trial. The Court need not address the *alternative* prong of the factors set forth in Lewis. Furthermore, the Court finds that this case does not involve the kind of pre-trial publicity that would justify the closure of the recordings from the media.

It is therefore **ORDERED AND ADJUDGED** that Defendant Michael Lugo's Motion to Close Discovery Documents is hereby **DENIED**.

It is further **ORDERED AND ADJUDGED** that Times Publishing Company's Motion to Intervene and For Access to Public Records is hereby **GRANTED**, to the extent that they have been permitted to intervene.

19 **DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this day of September, 2006.



DANIEL H. SLEET, Circuit Judge

Attachments:

Defendant's Composite Exhibit in Support of Motion to Close Discovery

Copies To:

Deeann D. Athan, Esquire
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Pamela Bondi, Esquire
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13th Judicial Circuit
801 East Twiggs Street
Tampa, Florida 33601

Gregg D. Thomas, Esquire
Attorney for Media General Operations, Inc.
Thomas & Locicero PL
100 W. Kennedy Boulevard, Suite 500
Tampa, Florida 33602

Alison M. Steele, Esquire
Attorney for Times Publishing Company
Rahdert, Steele, Bole & Reynolds, P.A.
535 Central Avenue
St. Petersburg, Florida 33701

EXHIBIT D

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Majority Opinion >

Florida Circuit CourtThirteenth CircuitHillsborough
County

STATE OF FLORIDA v. RICHARD ANTHONY
MCTEAR

No. 09-CF-007933

June 17, 2009

Criminal prosecution, in which defendant moves for temporary protective order with respect to release of discovery material and to prohibit law enforcement and other state and local government employees from making extrajudicial comments.

Denied.

Jalal A. Harb, State Attorney's Office, Tampa, Fla., for State of Florida.

Theda R. James and Mike Peacock, Tampa, for defendant.

Gregg D. Thomas and Rachel E. Fugate, of Thomas & LoCicero, Tampa, Fla., for Tampa Tribune, WFLA-TV, and WTVT-TV.

Alison M. Steele and Layla K. McDonald, of Rahdert Steele Bole & Reynolds, St. Petersburg, Fla., for Times Publishing Co.

Holder, J.:

THIS MATTER comes before the Court on this 17th day of June, 2009, on the Defendant's Verified Motion for Temporary Protective Order with Respect to Discovery Material Becoming Subject to Chapter 119 and to Prohibit Agents and Employees of the Hillsborough County State Attorney's Office, the Hillsborough County Sheriff's Office, the Hillsborough County Clerk's Office, the Public Defender's Office, the

Hillsborough County Medical Examiner's Office and the Florida Department of Law Enforcement from Making Extrajudicial Comments and Motions for Evidentiary Hearing, Request for Judicial *in camera* Review and Memorandum of Law in Support Thereof (the "Defendant's Motion"), filed pursuant to Florida Rule of Criminal Procedure 3.220 , on June 11, 2009.

In his motion, the Defendant requests that this Court enter a protective order limiting the availability of discovery under the Public Records Act, Chapter 119, Florida Statutes (the Public Records Act). Defendant requests that no discovery be permitted to become subject to the Public Records Act either:

1. Until it has been reviewed *in camera* and found by the Court to be non-prejudicial to Defendant's constitutional rights;
2. Until such time as the criminal charges against Defendant are finally determined by adjudication, dismissal, or other final disposition; OR,
3. Until such time as a jury has been selected and sequestered.

The Defendant also requests that the Court issue a gag order. More specifically, Defendant requests the Court order the agents and employees of the Hillsborough County State Attorney's Office, the Hillsborough County Sheriff's Office, the Hillsborough County Clerk of Court's Office, the Public Defender's Office, the Hillsborough County Medical Examiner's Office and the Florida Department of Law Enforcement to refrain from making any extrajudicial comment concerning this cause, the parties, or any issue related to these matters during the pendency of this matter and until such time as the case is finally determined by adjudication, dismissal, or other final disposition. The Court having considered the motion and attachments, the court file and record, as well as the argument of counsel for the State of Florida, this Defendant as well as the various local media, finds as follows:

The Defendant in this cause was arrested on May 5, 2009, for Murder in the First Degree, Kidnapping, [*2] Aggravated Child Abuse, Burglary of a Dwelling, Felony Battery, False Imprisonment, Burglary of a Dwelling with Assault or Battery, and Battery. The Defendant was indicted in Case No. 09-CF-7933, and

arraigned on May 20, 2009, for Murder in the First Degree, Burglary of a Dwelling with Assault or Battery, Aggravated Child Abuse, Kidnapping with Harm or Terrorizing, and Battery Second or Subsequent Offense. By and through Counsel, the Defendant pled not guilty to all charges in 09-CF-7933 and demanded discovery from the Office of the State Attorney pursuant to Rule 3.220, Fla.R.Cr.P. .

The Court notes the extensive electronic and print media coverage of the events surrounding these criminal allegations against this Defendant.

The Public Records Act was enacted by the legislative and executive branches of this state government to ensure that the public receives virtual total access to matters which are part of the public record. Discovery materials in the possession of the State become available to the media and the public under the Public Records Act when they are furnished to a defendant. See *Satz v. Blankenship*, 407 So. 2d 396 [7 Med.L.Rptr. 2576] (Fla. 4th DCA 1981).

The Defendant's requested protective order would constitute a prior restraint on speech which bears the presumption of constitutional invalidity. See, *State ex. rel. Miami Herald Pub. Co. v. McIntosh*, 340 So. 2d 904 , 908 [2 Med.L.Rptr. 1328] (Fla. 1977). A member of the press, under certain circumstances, may be properly considered a representative of the public and both the public and the press have both a constitutional and statutory right to see and know what occurs within their courtrooms. See *McIntosh, id.* This Court has long noted the absolute responsibility of the Judiciary as the third "separate but equal" branch of our state government to ensure the rights of all citizens of this great State. As such, the Court must consider the rights of the public to full knowledge of the activities involved within these proceedings. It is only through such public scrutiny and supervision that any branch of government can effectively and honestly function consistent with our obligation and oath to perform our duties as a government of, by, and for the people. It is this transparency with respect to all judicial activities and action that leads to public trust and confidence in these pre-trial and trial proceedings. It is ultimately this public trust and confidence which ensures fundamental fairness for this Defendant. Against these concerns, a court must balance the rights of a criminal defendant to a fair trial, which include a fair and impartial jury.

The Defendant argues that the publicity in this case has been pervasive and prejudicial to his constitutional rights. He argues that the potential jury pool might become tainted with additional adverse publicity. He states that his ability to receive a fair trial in this county stands in danger of being prejudiced without the requested protective order and a gag order.

In reviewing the motion, this Court has carefully considered and balanced the factors set forth in *Miami Herald Pub. Co. v. Lewis*, 426 So. 2d 1 [8 Med.L.Rptr. 2281] (Fla. 1983). These factors require [*3] that this Court consider the following: 1) whether the restriction is necessary to prevent a serious and imminent threat to the administration of justice; 2) whether there are other alternatives available, apart from a change of venue, which would protect a defendant's right to a fair trial; and, 3) whether the restrictions would be effective in protecting the rights of the accused.

At this point in these proceedings, it is premature to characterize the current adverse publicity as a serious and imminent threat to the administration of justice. It has not been shown that Defendant's right to a fair trial is in any reasonable way threatened by the reports surrounding the trial and the parties. The argument that members of the public will lack impartiality due to the existence of adverse reports in the news is not compelling. Moreover, this Court has the responsibility to ensure the fundamental fairness of these proceedings and possesses the inherent authority to take any means necessary to ensure such fairness.

For some members of the public, these matters are an important event and are worthy of public discussion. This does not imply the partiality of these individuals; merely their interest and their absolute right to be informed of these proceedings and this process. For others in the community, the events giving rise to this case may have been noted and dismissed. And yet, for some members of the community, even these reports noted by the Defendant, have drawn no interest or attention. Ignorance of such publicity may yet ensure their impartiality. Testing the impartiality of potential jurors in this case is ultimately best left to the process of voir dire. The fact that new evidence or opinions can be expected to arise during the discovery process does not militate against this conclusion. Further, it is axiomatic that this case will not reach trial in the near future due to the protracted nature of discovery and pretrial matters in cases carrying even the potential of

the ultimate penalty.

The Court finds that *in camera* review of discovery is not required to ensure that this Defendant receives a fair trial before an impartial jury. The Court likewise finds that a protective order prohibiting discovery from becoming subject to the Public Records Act is not necessary to ensure that Defendant receives a fair trial before an impartial jury. As for the gag order, the Court notes that Rule 4-3.6 of the Rules Regulating the Florida Bar specifically prohibits an attorney and an attorney's agents or employees from making any prejudicial extrajudicial statements. A gag order is, quite simply, unnecessary at this time as this Court fully expects and hereby Orders all Officers of this Court to meet their professional obligations consistent with their Oath to God, when sworn as members of The Florida Bar.

For the foregoing reasons, it is ORDERED AND ADJUDGED that Defendant's Motion is hereby DENIED.

COMPOSITE EXHIBIT E

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL
CIRCUIT IN AND FOR SARASOTA COUNTY, FLORIDA**

STATE OF FLORIDA,

**CASE NO. 2008 CF 936 NC
2008 CF 1087 NC**

VS.

MICHAEL KING,

Defendant.

**ORDER DENYING MOTION TO PROHIBIT RELEASE OF
INFORMATION IN ORDER TO PROTECT DEFENDANT'S RIGHT
TO A FAIR TRIAL**

This matter is before the court on Defendant's Motion to Prohibit Release of Information in Order to Protect Defendant's Right to a Fair Trial (the "Motion") filed on January 24, 2008. The court held a hearing on the Defendant's Motion on January 28, 2008. The court has carefully considered the Motion, argument of counsel, reviewed the court file, and is otherwise duly advised in the premises.

The Defendant's Motion is denied. The court finds that after considering the factors established in Miami Herald Publ'g Co. v. Lewis, 426 So. 2d 1, 6 (Fla. 1982), that prohibition on disclosure is not necessary to protect the Defendant's right to a fair trial. The court strongly advises the attorneys and staff of both the Office of the State Attorney and the Office of

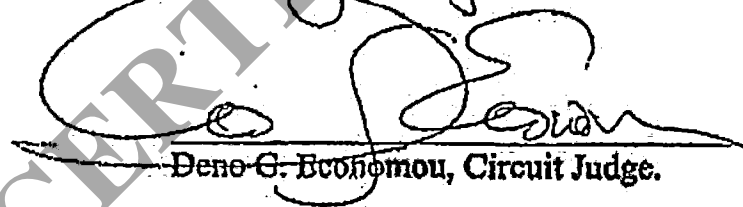
the Public Defender to adhere to the requirements of Rule 4-3.6(a) and (b),
Rules Regulating the Florida Bar, with regard to extrajudicial statements.

The Office of the State Attorney is further directed to explain those
restrictions to the law enforcement agencies involved in this matter.

Therefore, it is **ORDERED** and **ADJUDGED**:

The Motion, file and record establish that the Defendant is entitled to
no relief, and the Defendant's Motion Prohibit Release of Information in
Order to Protect Defendant's Right to a Fair Trial is denied.

DONE and **ORDERED** in chambers in Sarasota, Sarasota County,
Florida, on this 29th day of January, 2008.



Dene G. Economou, Circuit Judge.

Copies furnished by Judge's Office to:

Lon Arend, Assistant State Attorney (faxed 1/29/08)

John Scotese, Assistant Public Defender (faxed 1/29/08)

Rachel E. Fugate, Esquire (faxed 1/29/08)

Thomas & Locicero, P.L.
400 N. Ashley Drive, Suite 110
P.O. Box 2602 (33601)
Tampa, Florida 33602

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL
CIRCUIT IN AND FOR SARASOTA COUNTY, FLORIDA**

STATE OF FLORIDA,

**CASE NO. 2008 CF 936 NC
2008 CF 1087 NC**

VS.

MICHAEL KING,

Defendant.

**ORDER DENYING MOTION FOR REHEARING REGARDING
DEFENDANT'S MOTION TO PROHIBIT RELEASE OF
INFORMATION AND ORDER DENYING MOTION TO ALLOW
DEFENSE COUNSEL AND STATE AN OPPORTUNITY TO
REQUEST AN *IN CAMERA* REVIEW OF DISCOVERY
MATERIALS**

This matter is before the court on Defendant's Motion for Rehearing Regarding Defendant's Motion to Prohibit Release of Information and Motion to Allow Defense Counsel and State an Opportunity to Request an *In Camera* Review of Discovery Materials (the "Motion") filed on January 30, 2008. The court held a hearing on the Defendant's Motion on February 4, 2008. The court has carefully considered the Motion, argument of counsel, reviewed the court file, and is otherwise duly advised in the premises.

The Defendant's Motion for Rehearing is denied. The court's prior ruling dated January 29, 2008 is hereby reaffirmed.

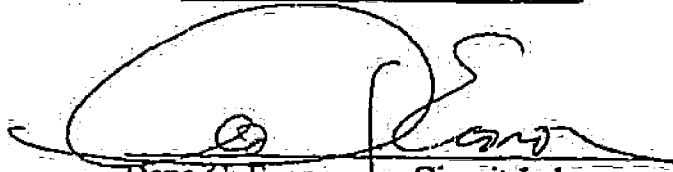
With respect to the Defendant's Motion to Allow Defense Counsel and State an Opportunity to Request an *In Camera* Review of Discovery Materials, the court finds that the Defendant has not met the standard established in Florida Freedom Newspapers, Inc. v. McCrary, 520 So. 2d 32, 35 (Fla. 1988) and Miami Herald Publ'g Co. v. Lewis, 426 So. 2d 1, 7-8 (Fla. 1982) for temporary closure and the Motion is denied.

The court retains jurisdiction to revisit this ruling should the attorneys, law enforcement personnel and others involved in this case fail to adhere to the dictates of Rule 4.3-6.

Therefore, it is **ORDERED** and **ADJUDGED**:

The Motion, file and record establish that the Defendant is entitled to no relief, and the Motion for Rehearing Regarding Defendant's Motion to Prohibit Release of Information and Motion to Allow Defense Counsel and State an Opportunity to Request an *In Camera* Review of Discovery Materials are denied.

DONE and **ORDERED** in chambers in Sarasota, Sarasota County, Florida, on this 6th day of Feb., 2008.



Deno G. Economou, Circuit Judge.

Copies furnished by Judge's Office to:

Lon Arend, Assistant State Attorney (faxed 2/6/08)

John Scotese, Assistant Public Defender (faxed 2/6/08)

Rachel E. Fugate, Esquire (faxed 2/6/08)

Thomas & Locicero, P.L.

400 N. Ashley Drive, Suite 110

P.O. Box 2602 (33601)

Tampa, Florida 33602

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EXHIBIT F

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OBTS NUMBER		ARREST/NOTICE TO APPEAR Juvenile Referral Report		1. Arrest 2. N.T.A.		3. Request for Warrant 4. Request for Copies		3		Juvenile		No	
ADMINISTRATIVE	Agency ORI Number FL0501700		Agency Name Jupiter Police Department				Agency Report Number 54 - 19 - 000820						
	Charge Type: Check as many as apply <input type="checkbox"/> 1. Felony <input type="checkbox"/> 2. Traffic Felony <input checked="" type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 4. Traffic Misdemeanor <input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other		Weapons Seized/Type 1. Yes 2. No 2										
	Location of Arrest (Including Name of Business)				Location of Offense (Business Name/Address) Orchids of Asia Day Spa 103 S US Hwy 1 C2, Jup.				Date of Offense 01/20/19				
	Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Fingerprinted By: <input type="checkbox"/> Identification <input type="checkbox"/> AFIS <input type="checkbox"/> Criminal						
Location of Vehicle		Other Local Number		FDLE Number		DOC Number		FBI Number					
DEFENDANT	Name (Last, First Middle) Kraft, Robert						Alias (Name, DOB, Soc. Sec. #, Etc.)						
	Race W - White B - Black O - Oriental/Asian W	Sex M	Date of Birth 06/05/1941	Height 508	Weight 160	Eye Color blu	Hair Color gray	Complexion med	Build med				
	Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description) none visible				Marital Status unk	Religion unk	Indication of: Alcohol Influence <input type="checkbox"/> Drug Influence <input type="checkbox"/>		Y <input type="checkbox"/> N <input type="checkbox"/> Un. <input checked="" type="checkbox"/>				
	Local Address (Street, Apt. Number) 260 Heath Street		(City) Brookline	(State) Ma	(Zip) 02445	Phone ()	Residence Type: 1. City 2. County 3. Florida 4. Out of State 1						
	Permanent Address (Street, Apt. Number) same		(City)	(State)	(Zip)	Phone ()	Address Source						
	Business Address (Name, Street)		(City)	(State)	(Zip)	Phone ()	Occupation						
	D/I Number		D/I State	Soc. Sec. Number	INS Number		Place of Birth MA		Citizenship US				
	Co-Defendant Name (Last, First, Middle)		Race	Sex	Date of Birth		<input type="checkbox"/> 1. Arrested <input type="checkbox"/> 2. At Large		<input type="checkbox"/> 3. Felony <input type="checkbox"/> 4. Misdemeanor <input type="checkbox"/> 5. Juvenile				
	Co-Defendant Name (Last, First, Middle)		Race	Sex	Date of Birth		<input type="checkbox"/> 1. Arrested <input type="checkbox"/> 2. At Large		<input type="checkbox"/> 3. Felony <input type="checkbox"/> 4. Misdemeanor <input type="checkbox"/> 5. Juvenile				
	CO-DEF.	<input type="checkbox"/> 1. Parent <input type="checkbox"/> 2. Legal Custodian <input type="checkbox"/> 3. Other		Name (Last, First, Middle)				Residence Phone ()					
Address (Street, Apt. Number)		(City)		(State)	(Zip)	Business Phone ()							
Notified By: (Name)		Date	Time	Juvenile Disposition 1. Handled/Processed within Dept. and Released 2. TOT HRS/DCF 3. Incarcerated									
Released To: (Name)		Relationship		Date	Time								
The above address was provided by the defendant and/or defendant's parent/guardian. The child and/or parent/guardian was told to keep the Juvenile Division Office (Phone 561-355-1200) informed of any change of address: Yes, by: (Name) No: (Reason)				School Attended		Grade							
JUVENILE	Property Crime? <input type="checkbox"/> Yes <input type="checkbox"/> No		Description of Property				Value of Property						
	Activity S. Sell N. N/A P. Possess B. Buy T. Traffic R. Smuggle D. Deliver E. Use K. Dispense/Distribute Distribute M. Manufacture Produce/ Cultivate Z. Other		Type N. N/A A. Amphetamine B. Barbiturate C. Cocaine E. Heroin H. Hallucinogen M. Marijuana O. Opium/Deriv.		P. Paraphernalia/ Equipment S. Synthetic U. Unknown Z. Other								
	Charge Description Solicit another to commit prostitution		Counts 1	<input checked="" type="checkbox"/> FSS <input type="checkbox"/> ORD	Statute Violation Number 796.07(5)(a)1		Violation of ORD #						
	Activity N	Drug Type N	Amount/Unit N/A	Offense # 19-000820	Warrant/Capias Number		Bond						
	Charge Description		Counts	<input type="checkbox"/> FSS <input type="checkbox"/> ORD	Statute Violation Number		Violation of ORD #						
CHARGE	Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number		Bond						
	Charge Description		Counts	<input type="checkbox"/> FSS <input type="checkbox"/> ORD	Statute Violation Number		Violation of ORD #						
CHARGE	Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number		Bond						
	Charge Description		Counts	<input type="checkbox"/> FSS <input type="checkbox"/> ORD	Statute Violation Number		Violation of ORD #						
CHARGE	Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number		Bond						
	Charge Description		Counts	<input type="checkbox"/> FSS <input type="checkbox"/> ORD	Statute Violation Number		Violation of ORD #						
CHARGE	Activity	Drug Type	Amount/Unit	Offense #	Warrant/Capias Number		Bond						
	Charge Description		Counts	<input type="checkbox"/> FSS <input type="checkbox"/> ORD	Statute Violation Number		Violation of ORD #						
NOTICE TO APPEAR	<input type="checkbox"/> Instruction No. 1 Mandatory Appearance in Court		Location (Court, Room Number, Address) North County Courthouse, 3188 PGA Blvd., Palm Beach Gardens, FL 33410										
			Court Date and Time Month: Day: Year: Time: <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.										
	I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED												
ADMIN	Signature of Defendant (or Juvenile and Parent/Custodian)										Date Signed		
	HOLD for other Agency Name:		Signature of Arresting Officer X				Name Verification (Printed by Prisoner) (PRINT)						
	<input type="checkbox"/> Dangerous <input type="checkbox"/> Suicidal Intake Deputy		<input type="checkbox"/> Resisted Arrest <input type="checkbox"/> Other I.D.#		Name of Arresting Officer (Print) Det. A. Sharp #412/1101		I.D.#		Agency		PAGE 1 of 1		
	Pouch #		Transporting Officer		I.D.#		Agency		Witness here if subject signed with an "X"				

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STATE ATTORNEY - 1 COPY

AGENCY - 2 COPIES

DEFENDANT - 1 COPY

ADMIN	OBTS Number		PROBABLE CAUSE AFFIDAVIT		1. Arrest 2. N.T.A.		3. Request for Warrant 4. Request for Capias		1	Juvenile	No
	Agency ORI Number FL 0501700				Agency Name JUPITER POLICE DEPARTMENT		Agency Report Number 54-19-000820				
DEF	Charge Type Check as many as apply		<input type="checkbox"/> 1 Felony <input type="checkbox"/> 2 Traffic Felony		<input checked="" type="checkbox"/> 3 Misdemeanor <input type="checkbox"/> 4 Traffic Misdemeanor		<input type="checkbox"/> 5 Ordinance <input type="checkbox"/> 6 Other		Special Notes		
	Name (Last, First, Middle) Kraft, Robert, K.		Alias								
VICTIM	Victim's Name (Last, First, Middle) State of Florida		Race		Sex		Date of Birth				
	Local Address (Street, Apt. Number) 210 Military Trail, Jupiter, Florida 33458		(City)		(State)		(Zip)		Phone		Address Source
	Business Address (Name, Street)		(City)		(State)		(Zip)		Phone		Occupation
PROBABLE CAUSE STATEMENT	The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe the above named Defendant committed the following violation of law. The person taken into custody.... <input type="checkbox"/> committed the below acts in my presence. <input type="checkbox"/> confessed to _____ admitting to the below facts. <input type="checkbox"/> was observed by _____ who told _____ that he/she saw the arrested person commit the below acts. <input checked="" type="checkbox"/> was found to have committed the below acts, resulting from my (described) investigation. On the <u>20th</u> day of <u>January</u> , <u>2019</u> at <u>1059</u> <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M. (Specifically include facts constituting cause for arrest)										

In October of 2018 members of the Jupiter Police Department began an investigation into criminal activity occurring at Orchids of Asia Day Spa, located at 103 S. US Highway 1 C2 in Jupiter. On January 17, 2019, covert surveillance equipment was installed in Orchids of Asia Day Spa pursuant to a sneak and peek warrant. The following narrative is a description of the illicit activity that took place.

Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 2

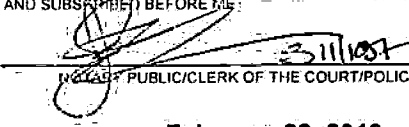
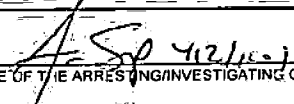
January 20th, 2019, 1059hrs – 1113hrs

Defendant: Robert K. Kraft (W/M, 06/05/41), dark long sleeved shirt, blue baseball cap, blue shorts, FL# 9191 (passenger).

On Sunday, January 20th, 2019, video surveillance was conducted at the target business. At approximately 1059 hrs, Kraft entered the business through the front door where he paid cash at the front desk to an Asian female, previously identified as [REDACTED] which was captured on JPPD Cam 5. [REDACTED] escorted Kraft to a room identified as JPPD Cam 2. There, the two hugged each other and Kraft took off all of clothing, laid face up on the massage table and [REDACTED] hugged him again. At approximately 1102hrs, [REDACTED] began manipulating Kraft's penis and testicles and then put her head down by his penis. This went on for several minutes. After a few minutes, [REDACTED] wiped Kraft in the area of his genitals with a white towel, helped him get dressed and hugged him again. Kraft gave [REDACTED] a \$100 bill plus at least one other unidentifiable bill. Kraft left the room at approximately 1113hrs.

Surveillance on scene: At approximately 1059hrs, a white male, previously identified as Robert Kraft (W/M 06/05/41) entered the establishment through the front door. At approximately 1113hrs, the Kraft exited the front door and traveled to a vehicle waiting in the parking lot, a 2015 blue Bentley FL Tag 9191; this was observed by Detective C. Cook #404. Kraft had previously entered the business on January 19th, 2019 and was positively identified by Massachusetts driver's license.

Based on the aforementioned investigation, I have probable cause to believe Robert K. Kraft did solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation, contrary to Florida Statute 796.07(5)(a)1.

ADMIN	SWORN AND SUBSCRIBED BEFORE ME:		SIGNATURE OF THE ARRESTING/INVESTIGATING OFFICER	
	 _____ Notary Public/Clerk of the Court/Police Officer		 _____ Det. A. Sharp #412 NAME OF OFFICER (PLEASE PRINT)	
	February 22, 2019 DATE		February 22, 2019 DATE	

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		OBTS NUMBER		ARREST/NOTICE TO APPEAR Juvenile Referral Report				1. Arrest 2. N.T.A.		3. Request for Warrant 4. Request for Capias		3	Juvenile	No									
ADMINISTRATIVE	Agency ORI Number FL 0501700		Agency Name Jupiter Police Department		Agency Report Number 54 - 19 - 000819																		
	Charge Type: Check as many as apply		<input type="checkbox"/> 1. Felony <input type="checkbox"/> 2. Traffic Felony		<input checked="" type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 4. Traffic Misdemeanor		<input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other		Weapons Seized/Type 1. Yes 2. No 2														
	Location of Arrest (Including Name of Business)				Location of Offense (Business Name/Address) Orchids of Asia Day Spa 103 S US Hwy 1 C2, Jup.						Date of Offense 01/19/19												
	Date of Arrest		Time of Arrest		Booking Date		Booking Time		Jail Date		Jail Time		Fingerprinted By: <input type="checkbox"/> Identification <input type="checkbox"/> AFIS <input type="checkbox"/> Criminal										
Location of Vehicle				Other Local Number		FDLE Number		DOC Number		FBI Number													
DEFENDANT	Name (Last, First Middle) Kraft, Robert														Alias (Name, DOB, Soc. Sec. #, Etc.)								
	Race W - White B - Black O - Oriental/Asian		Sex W M		Date of Birth 06/05/1941		Height 508		Weight 160		Eye Color blu		Hair Color gray		Complexion med		Build med						
	Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description) none visible						Marital Status unk		Religion unk		Indication of: Alcohol Influence Drug Influence		Y N Un. <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>										
	Local Address (Street, Apt. Number) 260 Heath Street						(City) Brookline		(State) Ma		(Zip) 02445		Phone ()		Residence Type: 1. City 2. County 3. Florida 4. Out of State								
	Permanent Address (Street, Apt. Number) same						(City)		(State)		(Zip)		Phone ()		Address Source								
	Business Address (Name, Street)						(City)		(State)		(Zip)		Phone ()		Occupation								
	D/I Number						D/I State		D/I Soc. Sec. Number		INS Number		Place of Birth MA		Citizenship US								
	Co-Defendant Name (Last, First, Middle)						Race		Sex		Date of Birth		<input type="checkbox"/> 1. Arrested <input type="checkbox"/> 2. At Large		<input type="checkbox"/> 3. Felony <input type="checkbox"/> 4. Misdemeanor <input type="checkbox"/> 5. Juvenile								
	Co-Defendant Name (Last, First, Middle)						Race		Sex		Date of Birth		<input type="checkbox"/> 1. Arrested <input type="checkbox"/> 2. At Large		<input type="checkbox"/> 3. Felony <input type="checkbox"/> 4. Misdemeanor <input type="checkbox"/> 5. Juvenile								
	JUVENILE	<input type="checkbox"/> 1. Parent <input type="checkbox"/> 2. Legal Custodian <input type="checkbox"/> 3. Other		Name (Last, First, Middle)												Residence Phone ()							
Address (Street, Apt. Number)						(City)		(State)		(Zip)		Business Phone ()											
Notified By: (Name)						Date		Time		Juvenile Disposition 1. Handled/Processed within Dept. and Released 2. TOT HRS/DCF 3. Incarcerated													
Released To: (Name)						Relationship		Date		Time													
The above address was provided by the defendant and/or defendant's parent/guardian. The child and/or parent/guardian was told to keep the Juvenile Division Office (Phone 561-355-7200) informed of any change of address: Yes, by: (Name) No: (Reason)														School Attended		Grade							
Property Crime? <input type="checkbox"/> Yes <input type="checkbox"/> No		Description of Property										Value of Property											
Activity N. N/A P. Possess		S. Sell B. Buy T. Traffic		R. Smuggle D. Deliver E. Use		K. Dispense/Distribute Distribute		M. Manufacture Produce/ Cultivate		Z. Other		Type N. N/A A. Amphetamine		B. Barbiturate C. Cocaine E. Heroin		H. Hallucinogen M. Marijuana O. Opium/Deriv.		P. Paraphernalia/ Equipment S. Synthetic		U. Unknown Z. Other			
Charge Description Solicit another to commit prostitution		Counts 1		<input checked="" type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number 796.07(5)(a)1				Violation of ORD #													
Activity N		Drug Type N		Amount/Unit N/A		Offense # 19-000819		Warrant/Capias Number				Bond											
Charge Description		Counts		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number				Violation of ORD #													
Activity		Drug Type		Amount/Unit		Offense #		Warrant/Capias Number				Bond											
Charge Description		Counts		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number				Violation of ORD #													
Activity		Drug Type		Amount/Unit		Offense #		Warrant/Capias Number				Bond											
Charge Description		Counts		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number				Violation of ORD #													
Activity		Drug Type		Amount/Unit		Offense #		Warrant/Capias Number				Bond											
NOTICE TO APPEAR	<input type="checkbox"/> Instruction No. 1 Mandatory Appearance in Court		Location (Court, Room Number, Address) North County Courthouse, 3188 PGA Blvd., Palm Beach Gardens, FL 33410																				
			Court Date and Time Month Day Year Time <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.																				
	I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.																						
ADMIN	Signature of Defendant (for Juvenile and Parent/Custodian)																Date Signed						
	HOLD for other Agency Name:						Signature of Arresting Officer X [Signature] 4/12/1101						Name Verification (Printed by Prisoner) (PRINT)										
	<input type="checkbox"/> Dangerous <input type="checkbox"/> Resisted Arrest <input type="checkbox"/> Suicidal <input type="checkbox"/> Other:						Name of Arresting Officer (Print) Det. A. Sharp #412/1101						I.D.#										
	Intake Deputy I.D.#						Pouch #						Transporting Officer I.D.# Agency						Witness here if subject signed with an "X"				
																PAGE 1 of 1							

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EXHIBIT G

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0879 NUMBER		ARREST/NOTICE TO APPEAR Juvenile Referral Report		1. Arrest 2. N.T.A.		3. Program for Offender 4. Release for Release		3	Journals	No
Agency ORI Number FL0501700		Agency Name Jupiter Police Department		Agency Report Number 84-18-005410						
Charge Type Check as many as apply <input type="checkbox"/> 1. Felony <input type="checkbox"/> 2. Traffic Felony <input type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 4. Traffic Misdemeanor <input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other		Location of Arrest (Including Name of Business) Orchids of Asia 103 S. U.S. Highway 1 #C2, Jupiter		Date of Arrest 02/19/19		Time of Arrest				
Location of Vehicle		Other Local Number		FDLE Number		DOC Number		FBI Number		
Name (Last, First, Middle) Zhang, Hua		Race W-White B-Black O-Other		Sex M F		Date of Birth 12/13/60		Height 5'04"		Weight 115
Eye Color Brown		Hair Color Brown		Complexion Olive		Build Small				
Score, Marks, Tattoos, Unique Physical Features (Location, Type, Description)		Martial Status Single		Religion Unk		Indication of: Alcohol Intake Drug Intake		Y N Unk		
Local Address (Street, Apt. Number) 15248 Evergreen Oak Loop,		(City) Winter Garden		(State) FL		(Zip) 34787		Phone ()		Residence Type: 1. City 2. County 3. Florida 4. Out of State
Permanent Address (Street, Apt. Number)		(City)		(State)		(Zip)		Phone ()		Address Source
Business Address (Name, Street)		(City)		(State)		(Zip)		Phone ()		Occupation
D/L Number		D/L State FL		Sec. Sec. Number		INS Number		Place of Birth China		Citizenship
Co-Defendant Name (Last, First, Middle) Wang, Lei		Race O		Sex F		Date of Birth 05/20/79		Is 1. Arrested 2. At Large		Is 3. Felony 4. Misdemeanor 5. Juvenile
Co-Defendant Name (Last, First, Middle)		Race		Sex		Date of Birth		Is 1. Arrested 2. At Large		Is 3. Felony 4. Misdemeanor 5. Juvenile
<input type="checkbox"/> 1. Parent <input type="checkbox"/> 2. Local Custodian <input type="checkbox"/> 3. Other		Name (Last, First, Middle)		Residence Phone ()						
Address (Street, Apt. Number)		(City)		(State)		(Zip)		Business Phone ()		
Notified By: (Name)		Date		Time		Juvenile Disposition 1. Home/Prearrest with Det. and Release 2. TDR/MSOCF 3. Incarceration				
Released To: (Name)		Relationship		Date		Time				
The above address was provided by the defendant under oath and is true and correct. The defendant understands that any change of address must be reported to the Juvenile Division Office (phone 801-366-7200) immediately.		School Attended		Grade						
Property Crime? <input type="checkbox"/> Yes <input type="checkbox"/> No		Description of Property		Value of Property						
Activity N. Sell P. Possess		S. Buy T. Traffic		R. Smuggle D. Deliver E. Use		K. Dispense/Distribute Distribute		M. Manufacture Produce Cultivate		Z. Other
Type N. N/A A. Amphetamine		B. Barbiturate C. Cocaine E. Heroin		H. Marijuana M. Marijuana O. Opium/Deriv.		P. Paraphernalia Equipment		U. Unknown Z. Other		
Charge Description Deriving Support From The Proceeds of Prostitution		Counts 1		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number 796.059(1) and (2)(a)		Violation of ORD #		
Activity N		Drug Type N/A		Amount/Unit N/A		Offense # 18-005410		Warrant/Capias Number		Bond
Charge Description Soliciting Another to Commit Prostitution		Counts 26		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number 796.07(2)(9f) and (5)(a)1		Violation of ORD #		
Activity N		Drug Type N/A		Amount/Unit N/A		Offense # 18-005410		Warrant/Capias Number		Bond
Charge Description Renting Space to Be Used for Prostitution		Counts 1		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number 796.061 and (2)(a)		Violation of ORD #		
Activity N		Drug Type N/A		Amount/Unit N/A		Offense # 18-005410		Warrant/Capias Number		Bond
Charge Description Maintain a house of Prostitution		Counts 1		<input type="checkbox"/> FSS <input type="checkbox"/> ORD		Statute Violation Number F.S.796.07(2)(a)		Violation of ORD #		
Activity N		Drug Type N/A		Amount/Unit N/A		Offense # 18-005410		Warrant/Capias Number		Bond
<input type="checkbox"/> Instruction No. 1 Mandatory Appearance in Court		Location (Court, Room Number, Address)		Court Date and Time Month Day Year Time		Time <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.				
I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.		Signature of Defendant (or Juvenile and Parent/Guardian)		Date Signed						
HOLD for other Agency Name:		Signature of Arresting Officer X [Signature]		Name Verification (Printed by Prisoner) (PRINT)						
<input type="checkbox"/> Dangerous <input type="checkbox"/> Suicidal Inmate Deputy		<input type="checkbox"/> Released Arrest <input type="checkbox"/> Other: I.D.#		Name of Arresting Officer (Print) A. Sharp		L.D.# 412/1101		Agency		PAGE 1 OF 1

ADMIN	OBT# Number		PROBABLE CAUSE AFFIDAVIT		1. Arrest 2. N.T.A.	3. Request for Warrant 4. Request for Copies	3	Juvenile	No
	Agency ORI Number FL0501700		Agency Name JUPITER POLICE DEPARTMENT		Agency Report Number 54-18-005410				
DEF	Charge Type: Check as many as apply:		<input checked="" type="checkbox"/> 1. Felony <input type="checkbox"/> 2. Traffic Felony <input type="checkbox"/> 3. Misdemeanor <input type="checkbox"/> 4. Traffic Misdemeanor <input type="checkbox"/> 5. Ordinance <input type="checkbox"/> 6. Other		Special Notes:				
	Name (Last, First, Middle): Zhang, Hua		Age:						
VICTIM	Victim's Name (Last, First, Middle): State of Florida		Race: N/A		Sex: N/A		Date of Birth: N/A		
	Local Address (Street, Apt. Number):		(City):	(State):	(Zip):	Phone:		Address Source:	
	Business Address (Name, Street):		(City):	(State):	(Zip):	Phone:		Occupation:	
PROBABLE CAUSE STATEMENT	<p>The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe the above named Defendant committed the following violation of law. The person taken into custody....</p> <p> <input type="checkbox"/> committed the below acts in my presence. <input type="checkbox"/> confessed to _____ admitting to the below facts. </p> <p> <input type="checkbox"/> was observed by _____ who told _____ that he/she saw the arrested person commit the below acts. <input checked="" type="checkbox"/> was found to have committed the below acts, resulting from my (described) investigation. </p> <p>On the <u>14th</u> day of <u>February</u>, <u>2019</u> at <u>2130</u> <input type="checkbox"/> A.M. <input checked="" type="checkbox"/> P.M. (Specifically include facts constituting cause for arrest)</p>								

In late October of 2018, I initiated a prostitution investigation based on information received from Detectives with the Martin County Sheriff's Office. Detectives from the Martin County Sheriff's Office advised they were working several cases of prostitution and possible human trafficking at Asian massage parlors in their county. During the course of their investigation, information was gained that there was a similar business in the Town of Jupiter. The business in question was identified as Orchids of Asia Day Spa, located at 103 S. U.S. Highway 1, Suite C2 in the Jupiter Square Plaza.

Based on the information obtained, I began researching the business. The State of Florida Division of Corporations Records show the business registered as Orchids of Asia Day Spa Inc. and was filed and became active on February 15th, 2012. The registered agent name is listed as Hua Zhang with an address of the business, 103 S. U.S. Highway 1 #C2, Jupiter, FL 33477. A query of the Department of Highway Safety and Motor Vehicles Driver and Vehicle Information Database identified Hua Zhang with a date of birth of December 13th, 1960. Hua Zhang's listed address of 15248 Evergreen Oak Loop, Winter Garden Florida, 34787.

A Google search using the name of the business, Orchids of Asia Day Spa, revealed several reviews of the business on various search engines. Those reviews indicated the business was a "rub and tug"; "rub and tug" is slang term which identifies a business as providing sexual services, specifically manually manipulating the male genitals until the point of climax. The website Rubmaps.com is a forum based website which allows customers, seemingly all male, to discuss their individual experiences at illicit massage parlors. Under the name Orchids of Asia Day Spa, several postings were located from February 2015 to March of 2018. The reviews for Orchids of Asia Day Spa provide the name, address, phone numbers and directions to the location. The postings detailed visits involving Asian females providing sexual acts, as well as massage/body rubs in exchange for payment. The majority of the posts advised the female employee would provide the male client with a "hand job"; "hand job" is a slang term for a sexual act involving the manual manipulation of the male genitals.

On Tuesday, November 6th 2018, I began a surveillance operation of the business. I conducted a visual inspection of the exterior of the business and observed a neon sign with the words "Massages", "Open" and "Facials". Listed next to the neon sign, in white vinyl lettering were the words "Massage Therapy", "Table Shower", "Body Treatments", and "Facial Treatments". On the front door of the business, in white vinyl lettering, the operating times of the business were displayed which stated the business is open 7 days a week from 09:30am to 9:30pm. After being at the business for over 7hrs, I only observed male clients enter and exit the business, despite the listing advertising "Facials" and other services for female clients.

From Tuesday, November 6th, 2018 to Wednesday, November 14th, 2018, covert video surveillance from the outside of the business was conducted 24hrs a day. Each day, the business opened at approximately 9am and did not close until approximately 10:30 or 11:30pm. Each client who entered the business was male and would stay of an average of 30-45 minutes. The Surveillance log for those days is as follows:

Surveillance began on Tuesday, November 6th, 2018 at 1500hrs to 2157hrs. During the surveillance period, approximately 7 males visited the business. All of the males stayed for a period of 30 to 60 minutes.

On Wednesday, November 7th, 2018, I conducted surveillance of the business from 0900hrs to 2300hrs. During the surveillance, approximately sixteen (16) males visited the business. All of the males stayed for a period of 30 to 60 minutes.

On Thursday, November 8th, 2018, I conducted surveillance at the business from 0900hrs to 2300hrs. During the surveillance period, approximately eighteen (18) males visited the business, including a golf cart party of eight (8) males. All of the males stayed for a period of 30 to 60 minutes.

On Friday, November 9th, 2018, I conducted surveillance at the business from 0900hrs to 2230hrs. During the surveillance period, approximately eighteen (18) males visited the business and stayed for a period of 30 to 60 minutes.

On Saturday, November 10th, 2018, I conducted surveillance at the business from 0900hrs to 2300hrs. During the surveillance period, approximately twenty (20) males visited the business and stayed for a period of 30 to 60 minutes.

On Sunday, November 11th, 2018, I conducted surveillance at the business from 0900hrs to 2200hrs. During the surveillance period, approximately thirteen (13) males visited the business and stayed for a period of 30 to 60 minutes.

On Monday, November 12th, 2018, I conducted surveillance at the business from 0900hrs to 2300hrs. During the surveillance period, approximately twelve (12) males visited the business and stayed for a period of 30 to 60 minutes.

After obtaining this information, I made contact with Florida Department of Health investigator Karen Herzog. I requested Herzog conduct a routine inspection on the business.

On Wednesday, November 14th, 2018, Herzog conducted her inspection. Inside the business, Herzog advised there were three female employees present. Herzog took photographs of the employees Florida Driver's Licenses and Massage Therapy Licenses. The females were identified as the following: Lei Wang (A/F, 05/20/73), Hua Cao (A/F, 02/08/72) and Shen Mingbi (A/F, 07/19/60).

Investigator Herzog took photographs of the inside of the business and advised it appeared as though the female employees were living there as there were two rooms with beds, including sheets and pillows. Next to the beds she located dressers which housed several personal items including medicines and clothing for the females. Inside the kitchen of the business, Herzog located a refrigerator filled with food and condiments, consistent with individuals living inside. While Herzog was inside of the business conducting her inspection, Detective Cook #404, Detective Jordan #405 and I were outside of the business to the front and rear in unmarked vehicles. At the conclusion of the inspection, Detective Jordan #405 advised an Asian female immediately exited the rear of the business and through away a small plastic bag into the trash dumpster located directly behind the business. Inspector Herzog also reported that Wang self-identified

herself as the manager of the Orchids of Asia Day Spa.

At approximately 2300hrs on the 14th, Detective Jordan and I conducted a trash pull on the business. Located inside of the dumpster to the business, I observed several white garbage bags. Based on my training and experience, it is known that illicit massage business commonly discard their trash inside small plastic grocery style bags. Next to several regular white garbage bags, I located a small white grocery style plastic bag. Inside of the white bag, I located two other small grey grocery style bags. Inside of the first grey grocery style bag, I located several pieces of white paper which had been ripped. I placed the pieces together which created a spreadsheet with several columns. The columns were titled Name, Service, Add Time, Amount, In, Out, Cash, Card, Cert./Pre-Paid, Card tip and other. Under the names column was the name LuLu. LuLu was listed on rubmaps.com as one of the provider's names for the illicit massage. Also located inside of the bag were several plastic napkins which were wet and appeared to be covered in seminal fluid. The items were secured and taken back to the Jupiter Police Department. On Thursday, November 15th, 2018, I requested Crime Scene Investigator McClendon conduct a presumptive test of the napkins recovered for the presence of seminal fluid. Investigator McClendon stated the napkins tested positive.

On Monday, November 19th, 2018, Agent Rhodes #343 and I conducted a second trash pull on the business. I located two small grocery style plastic bags inside the dumpster to the rear of the business. The first, a small tan grocery style plastic bag contained several credit card receipts with the name of the business printed on the top. Within the bag were several wet paper napkins which appeared to be covered in seminal fluid. The second bag, a gray in color small grocery style plastic bag contained several other wet paper napkins, along with ripped pieces of white paper.

Handwritten on the paper was the following: "11:00 LuLu, 1hr, Dan" and in parenthesis the numbers which is believed to be the last four digits of a credit card number. The items were secured and taken back to the Jupiter Police Department. On Tuesday, November 20th, 2018, I requested Crime Scene Investigator McClendon conduct a presumptive test of the napkins recovered for the presence of seminal fluid. Investigator McClendon stated the napkins tested positive.

On Thursday, January 10th, 2019, surveillance was conducted at the business to monitor customer volume and traffic. Listed below is the surveillance log for that day:

Surveillance Log:

1000hrs Surveillance began.

1120hrs black Ford Escape with a New York tag pulled into the parking lot and parked near the business. W/M wearing a black windbreaker, green shorts and tan visor entered the business (Subject A).

1150hrs "Subject A" exited the business and was followed by Officer Kitchens #381. A traffic stop was initiated for a violation of a traffic control device.

I conducted a roadside interview with Subject A concerning his activity inside the business, and was advised of the following. Subject A stated a friend had referred him to the business. Subject A advised he had been to the business several times previously. Subject A stated when he entered the business he was in a foyer/lobby where he waited for an employee. He advised he was greeted by an Asian female, he identified as "Ava". Subject A advised he asked for a half hour massage and was escorted to a massage room where he disrobed and laid face down on a massage table inside the room. Subject A

advised that he received a massage and when he turned over "Ava" manually stimulated his penis to climax. No condom was used. Subject A advised that at the conclusion, "Ava" cleaned him off using a hot towel and he was provided with napkins. I showed subject A a photograph of Lei Wang who he identified as "Lulu". Subject A advised "Lulu" was individual he paid for the massage. I also showed Subject A a photograph of Hua Cao, a known employee of the spa, who he identified as "Ava". Subject A advised he gave "Ava" \$70.00 for the services performed.

1300hrs "Subject B" arrived at the business driving a white Hyundai Genesis

1330hrs "Subject B" exited the business and was followed by Officer Kitchens #381. A traffic stop was initiated for unlawful speed.

I conducted a roadside interview with Subject B concerning his activity inside the business, and was advised of the following: Subject B stated a friend had referred him to the business and he had frequented the business several times before. Subject B stated when he entered the business he was in a foyer/lobby where he waited for an employee. He advised he was greeted by an Asian female and he asked for a half hour massage. Subject B advised he paid \$59.00 for the massage and was escorted to a massage room. Subject B stated once inside the room he disrobed and laid face down on a massage table. Subject B advised he received a massage and when he turned over the female manually stimulated his penis to climax. No condom was used. Subject B advised at the conclusion, the female cleaned him off using a hot towel and he was provided with napkins with which he finished cleaning himself off. Subject B stated he gave the female \$20.00 cash for the services provided.

1445hrs "Subject C" arrived at the business driving a white Mercedes Benz SUV

1500hrs "Subject D" arrived at the business driving a four door black Honda.

1545hrs "Subject C" exited the business and was followed by Officer Palladino #362. A traffic stop was initiated for violation of a traffic control device. I conducted a roadside interview with Subject C concerning his activity inside the business, and was advised of the following: Subject C stated he had just moved to the area and saw the business and had been there one time previously. Subject C stated when he entered the business he was greeted by an Asian female. Subject C stated he asked for an hour long massage, paid \$80.00 in cash, and the female gave him \$1.00 back from the register. Subject C advised he was escorted to a massage room where he entered and disrobed. Subject C advised he laid down on the massage table face down and a different female, who he identified as "Ava," gave him the massage and when he turned over on his back, the female manually stimulated his penis to climax. No condom was used. Subject C advised at the conclusion, the female provided him with a hot towel along with napkins to clean off with. I showed subject C a photograph of Hua Cao and he advised he believed she was "Ava". I also showed him a photograph of Lei Wang and he advised he believed her to be the female he paid at the front of the business.

1605hrs Subject D exited the business and was followed by Officer Kitchens #381, who conducted a traffic stop for running a red light. I conducted a roadside interview with Subject D who advised the following: when he entered the business he was in a foyer/lobby where he waited for an employee. He advised when he entered the plaza, he parked next to a white Mercedes with a maroon roof. Subject D advised an Asian female exited the Mercedes and entered the business along with him. Inside the business,

Subject D stated the same female asked him if he wanted 1 hour and he advised he did and paid \$79 via credit card.

Subject D stated he had visited the business previously and was waited on by and paid the same female. The female then escorted him to a massage room. Once inside the room he disrobed and laid face down on a massage table. Subject D advised a different female from the initial female gave him a massage and when he turned over the female manually stimulated his penis to climax. No condom was used. Subject D advised at the conclusion, the female provided him with a hot towel to clean off with. I showed Subject D a photograph of Lei Wang. He identified her as the female driving the white Mercedes, and stated she was the same female he paid today and on his previous visit.

On Tuesday, January 15th, 2019, I obtained a search warrant for the authorization of the monitoring and recording of visual, non-audio conduct, for the target business.

On Friday January 18th, 2019, surveillance of the law enforcement video cameras began and was monitored for a period of five (5) days by members of the Jupiter Police Department's Operations Support Bureau.

Below is a list of sexual acts which were captured on camera:

January 18th, 2019, 1211hrs - 1318hrs

Room Surveillance: Det. T. Jenne #403

Room Camera: JPPD Cam #3

Defendant: Male 1 wearing a white shirt, dark shorts, glasses and flip flops.

At approximately 1211hrs, Male 1 entered the business, went to the front desk and paid Lei Wang (A/F, 5/20/73) who was behind the front counter, with a credit card. Male 1 then entered a room, identified as JPPD Cam 3 and immediately disrobed completely and laid face down on the table, fully naked with no sheet. At 1216hrs, an Asian female with long straight black hair, wearing an orange or pink top and black capri style pants entered the room and began to massage Male 1. At 1300hrs, the Asian female began to manually manipulate Male 1's penis. At approximately 1311hrs, the Asian female began cleaning off Male 1's genital area and stomach with a towel. At 1315hrs, the Asian female assisted Male 1 in getting dressed. At 1316 hours, Male 1 handed the Asian female cash (\$20 bill) and Male 1 left the room.

January 18th, 2019, 1256hrs - 1318hrs

Room Surveillance: Det. T. Jenne #403

Room Camera: JPPD Cam 2

Defendant: Male 2, wearing red or pink shirt, blue shorts.

At approximately 1256hrs Male 2 entered the business, went to the front desk and paid for services with a \$100 bill, to an Asian female who was behind the front counter. The Asian female gave Male 2 \$21 in change. Male 2 entered a room designated as JPPD Cam 2, escorted by an Asian female with long straight black hair, wearing an orange or pink top and black Capri style pants. Male 2 laid on the bed until approximately 1316hrs. Male 2 seemed to get upset, and started to get dressed. The Asian female re-entered the room at approximately 1317hrs, and calmed him down by hugging him. She then assisted Male 2 in taking his clothes off, hugging and kissing him as well. The Asian female helped Male 2 take all of his clothes off. At approximately 1341hrs, the Asian female began manipulating Male 2's genitals from the rear. At approximately 1357 hours, the Asian female took her pants

off, and then Male 2 put his left hand in between her legs and manually manipulated her genitals. The Asian

female began kissing Male 2 while still manipulating his genitals. The Asian female switched sides of the bed and Male 2 put his right hand down by her genitals and began manipulating her genitals while she manipulated Male 2's genitals. At approximately 1402hrs, the Asian female manually manipulated Male 2's penis to the point of ejaculation and then cleaned him up with a white towel. The Asian female helped Male 2 dress, hugged and kissed him, and turned the lights back on. Male 2 took several unknown denomination bills of US paper currency from his wallet and gave them to the Asian female.

January 18th, 2019, 1634hrs – 1733hrs
Room Surveillance: Det. A. Sharp #412
Room Camera # JPPD Cam 2

Defendant: Male 3, gray hair, blue shirt, blue jean shorts.

At approximately 1634hrs, Male 3 entered the business, approached the front desk and paid an Asian female, previously identified as Hua Zhang (A/F, 12/13/60), who was behind the counter for services in cash; Male 3 handed Zhang a \$100.00 bill and Zhang provided him with \$21.00 cash in change, all of which was captured on JPPD Cam 5. Zhang escorted Male 3 to a room, designated as JPPD Cam 2. Male 3 completely undressed and laid face down on the table. A second Asian female, who wore a pink shirt with black stripes and black capri pants, entered the room and began massaging Male 3. At approximately 1716hrs, Male 3 flipped over and the female began manually manipulating his penis. This went on for several minutes. After a few minutes, the female wiped the male in the area of his genitals with a white towel. At approximately 1731rs, Male 3 began to get dressed and handed the female cash. At approximately 1733hrs, Male 3 exited the business.

January 18th, 2019, 1851hrs – 1928hrs
Room Surveillance: Det. A. Sharp #412
Room Camera # JPPD Cam 4

Defendant: Male 4 wearing a dark jacket and khaki pants.

At approximately 1851hrs, Male 4 entered the spa wearing a dark jacket and khaki pants and handed an Asian female, previously identified as Lei Wang (A/F, 05/20/73), a \$100.00 bill. Wang took the money, put it in the drawer, and gave Male 4 \$21.00 change, which was captured on JPPD Cam 5.

At approximately 1853hrs, Male 4 was escorted to a massage room, captured by JPPD Cam 3, by an Asian female wearing a white sleeveless shirt and dark flower patterned pants. This female was previously identified as Shen Mingbi (A/F, 07/19/60). Once inside the room, Male 4 immediately disrobed and laid on the massage table naked on his back, covering his genitals with a sheet. At approximately 1909hrs, Mingbi began manipulating Male 4's penis manually and orally for several minutes. At approximately 1917hrs, Mingbi was seen with a substance on her hand. She then cleaned Male 4's penis off with both a towel and paper napkins. At approximately 1921hrs, Mingbi lifted her shirt and allowed Male 4 to stimulate her breasts with his hands. Mingbi pulled down her pants below her waist. Mingbi climbed on top of Male 4, placing her genital region in his face; Male 4 performed oral sex on her.

This continued for several minutes. At approximately 1927hrs, Male 4 stood from the bed and began to get dressed. At 1928hrs, Male 4 laid one \$100.00 bill and one \$50.00 bill on the massage table. Mingbi was seen taking the bills, after which both Male 4 and Mingbi exited the room.

January 18th, 2019, 2331hrs – 0014hrs

Room Surveillance: Det. A. Sharp #412

Room Camera # JPPD Cam 3

Defendant: Male 5

At approximately 2331hrs, Male 5 entered the spa wearing a black shirt and dark pants. Male 5 approached the front counter and paid for services to an Asian female, previously identified as Lei Wang (A/F, 05/20/73), with a credit/debit card which was captured on JPPD Cam 5. At approximately 2335hrs, Male 5 walked to a massage room, captured by JPPD Cam 3, disrobed and laid face down on the massage table. An Asian female, previously identified as Shen Mingbi (A/F, 07/19/60), and an unidentified Asian female wearing a pink top and black pants entered the room and began massaging Male 5. Both females were observed on camera massaging Male 5's back for several minutes. After massaging Male 5's back, both females began manipulating Male 5's penis manually at approximately 2340hrs. At 2351hrs, Male 5 was observed putting his hand up Mingbi's shirt, stimulating her breasts, and appears to ejaculate. At approximately 2353hrs, Mingbi and the unidentified female were observed cleaning off Male 5's penis with several white towels. At approximately 0010hrs, Male 5 was observed paying the females \$7.00 cash; the bills were placed on the massage table and identified as 1 \$5.00 bill and 2 \$1.00 bills. Male 5 was then brought to the front counter by Mingbi and the unidentified female, where he was observed paying with a credit card for the second time at approximately 0012hrs. Male 5 exited the business at approximately 0014hrs.

January 19th, 2019, 1332hrs-1453hrs

Room Surveillance: Det. B. Jordan #405

Room Camera # JPPD Cam 3

Defendant: Male 6

At approximately 1332hrs, Male 6 entered the business and approached the front desk where he paid Lei Wang (A/F 5/20/73), who was sitting behind the counter, for services utilizing a credit/debit card captured on JPPD Cam 5. Male 6 entered a room, designated as JPPD Cam 3, completely undressed and laid face down on the table. Male 6 had a small round tattoo on his right shoulder blade. At approximately 1335hrs, Shen Mingbi (A/F, 07/19/60), entered the room and began massaging Male 6. Mingbi dimmed the lights. At approximately 1435hrs, Male 6 stood up and paid Mingbi in cash. Next, Mingbi began manipulating Male 6's genitals and applied an oil. At approximately 1441hrs, Mingbi wiped off Male 6's genital region with white towels. At approximately 1453hrs, Male 6 handed Mingbi two \$20 bills and left the room.

January 19th, 2019, 1501hrs - 1600hrs

Room Surveillance: Det. B. Jordan #405

Room Camera # JPPD Cam 4

Defendant: Male 7

At approximately 1501hrs, Male 7 entered the business, approached the front desk and paid Shen Mingbi (A/F, 7/19/60) who was behind the counter, for services with cash which was captured on JPPD Cam 5. Male 7 entered a room, designated as JPPD Cam 4, completely undressed, and lay face down on the table. Male 7 had an eagle, globe, and anchor tattoo on his left shoulder. Mingbi entered the room and began massaging Male 7 and soon after, dimmed the lights. While massaging Male 7, Mingbi is seen touching Male 7's genitals. Male 7 turned over onto his back, and lay face up. At approximately 1545hrs, Mingbi began manually manipulating Male 7's genitals. Shortly after, Mingbi wiped off Male 7's genital region with white towels. At approximately 1559hrs, Male 7 got dressed and left the room and exited the business.

January 19th, 2019, 1645hrs-1725hrs

Room Surveillance: Det. C. Cook #404

Room Camera # JPPD Cam 3

Defendant: Male 8, blue shirt, blue ball cap.

At approximately 1645hrs, Male 8 entered the listed establishment and paid for services at the front desk utilizing cash to Lei Wang (A/F, 05/20/73), who was behind the counter, captured on JPPD Cam 5. Next, Male 8 entered the room designated as JPPD Cam 3, completely undressed and laid down on the table. An Asian female, previously identified as Shen Mingbi (A/F, 07/19/60), and Lei Wang entered the room and both began massaging Male 8. Next, Male 8 turned over, face up, and Mingbi and Wang took turns manipulating Male 8's genitals. A short time later, Wang began to clean Male 8's genital area with a towel. At approximately 1724hrs, Male 8 gave both Wang and Mingbi \$100.00 cash and exited the room.

January 19th, 2019, 1714hrs-1820hrs

Room Surveillance: Det. C. Cook #404

Room Camera # JPPD Cam 4

Defendant: Male 9, grey zip up sweater, white shirt, multicolor shorts.

At approximately 1714hrs, Male 9 entered the listed establishment and paid for services at the front desk utilizing cash, to Lei Wang (A/F, 05/20/73) who was behind the front counter, captured on JPPD Cam 5. Next, Male 9 entered a room, designated as JPPD Cam 4, completely undressed and laid down on the table. At approximately 1727hrs, Wang entered the room and began massaging Male 9. At approximately 1736hrs, an unidentified Asian female wearing a black and white checkered shirt and black pants with writing on the back entered the room and continued the massage. At approximately 1810, the Asian female lifted up the front of her shirt and allowed Male 9 to touch her exposed breasts. Next, the Asian female began manipulating Male 9's genitals. Next, the Asian female employee began to clean Male 9's genital area with a towel. At approximately 1820hrs, Male 9 was seen with several bills of US currency in his hand and exiting the business.

January 19th, 2019, 1800hrs - 1836hrs

Room Surveillance: M. Lilienfeld #220

Room Camera # JPPD Cam 3

Defendant: Male 10, white t-shirt black shorts

At approximately 1800hrs, Male 10 entered the business and approached the front desk. Male 10 paid an Asian female who was behind the counter, previously identified as Lei Wang (A/F 5/20/73), for services in cash. Male 10 then went to a room, designated as JPPD Cam 3, at approximately 1804hrs where he disrobed and laid face down on a massage table. An Asian female, previously identified as Shen Mingbi (A/F, 07/19/60) entered the room at approximately 1803hrs and began massaging Male 10. At 1815hrs Male 10 laid on top of Mingbi and kissed her. At 1818hrs Mingbi began to manually manipulate Male 10's penis. This continued for several minutes until Male 10 ejaculated. Mingbi then wiped his penis and stomach with a white cloth. At approximately 1834hrs, Male 10 paid Mingbi in cash and exited the business.

January 19th, 2019, 2047hrs – 2144hrs
Room Surveillance: Det. J. Kenerson #406
Room Camera: JPPD Cam 2

Defendant: Male 11, red colored long sleeve hoodie type sweatshirt, a red colored winter hat, dark colored shorts.

At approximately 2047hrs Male 11 entered the business, made payment by credit card for services at the front desk to an Asian female clerk, described as wearing all dark colored clothing with a sleeveless top, which was captured on JPPD Cam 5. Male 11 signed a credit card receipt and handed it back to the female clerk and entered a room designated as JPPD Cam 2. Once inside, Male 11 completely undressed and laid face down on the table; Male 11 was observed to have a tattoo on his left shoulder area and tattoos on the back triceps area of his arms. The Asian female wearing all dark clothing entered the room and began massaging Male 11 at approximately 2051hrs. At approximately 2126 hours, Male 11 was on his back naked and the Asian female performed a hand massage on the area around his genitals (legs and stomach). At approximately 2129, the Asian female began to touch Male 11's penis with her hands. At approximately 2130 hours, the Asian female began to manually manipulate Male 11's penis. At approximately 2133 hours, the Asian female stopped the described act and wiped off Male 11's genitals. At approximately 2143 hours, Male 11 got dressed, received a bottle of water and handed the female cash. Male 11 did not put on the red sweatshirt and left wearing a white t-shirt with a graphic on the front and exited the business at approximately 2144hrs.

January 20th, 2019, 1040hrs – 1113hrs Room
Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 3

Defendant: Male 12 gray hair, blue long-sleeve shirt, white shorts

At approximately 1040hrs, Male 12 entered the business, approached the front desk and paid Lei Wang (A/F 5/20/73), who was behind the counter for services utilizing a credit/debit card and cash, which was captured on JPPD Cam 5. Wang escorted Male 12 to a room, designated as JPPD Cam 3. Male 12 completely undressed and laid face down on the table. A second Asian female, who wore a pink shirt with black stripes and black capri pants, entered the room and began massaging Male 12. At approximately 1103hrs, Male 12 flipped over and the female began manually manipulating his penis and testicles. This went on for several minutes. After a few minutes, the female wiped the male in the area of his genitals with a white towel. At approximately 1113hrs, Male 12 left.

January 20th, 2019, 1059hrs – 1113hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 2

Defendant: Male 13, dark long sleeved shirt, blue baseball cap, blue shorts.

At approximately 1059 hrs, Male 13 entered the business where he paid cash at the front desk to an Asian female, previously identified as Lei Wang (A/F, 05/20/73) (captured on JPPD Cam 5). Wang escorted Male 13 to a room identified as JPPD Cam 2. There, the two hugged each other and Male 13 disrobed and laid face up on the table. Wang hugged him again. At approximately 1102hrs, Wang began touching and rubbing Male 13's penis and testicles and then appeared to perform oral sex on him. This went on for several minutes. After a few minutes, Wang wiped Male 13 in the area of his genitals with a white towel, helped him get dressed, and hugged him again. Male 13 gave Wang a \$100 bill and at least one other unidentifiable bill. Male 13 left at approximately 1113hrs.

January 20th, 2019, 1305hrs – 1453hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 4

Defendant: Male 14, dark jacket with bulldog logo, white shirt, blue shorts.

At approximately 1305hrs, Male 14 entered the business, approached the front desk, and paid Lei Wang (A/F 5/20/73) who was behind the counter for services utilizing a credit/debit card, which was captured on JPPD Cam 5. Male 14 walked to a room, designated as JPPD Cam 4. Male 14 completely undressed, put on a robe and left the room, returning at approximately 1323hrs. He then laid face down on the table. Wang entered the room and began to massage his back and buttocks. At approximately 1423 hours, Wang began rubbing her hand along the crack of Male 14's buttocks. Wang then inserted her fingers into Male 14's anus repeatedly. At approximately 1429hrs, the lights in the room went out. At approximately 1451hrs the lights in the room came on and Male 14 was observed lying on his back with a towel over his lower body. Male 14 got up, began to dress, and put cash on the table. He then picked it up and walked out of the room. He left at approximately 1453 hours.

January 20th, 2019, 1305hrs – 1436hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 2

Defendant: Male 15, white long sleeve shirt, long pants.

At approximately 1305hrs, Male 15 and a white male previously identified as Male 14, entered the business. Both males approached the front desk and Male 14 paid an Asian female, previously identified as Lei Wang (A/F 5/20/73) who was behind the counter for services utilizing a credit/debit card, which was captured on JPPD Cam 5. Male 15 entered a room, designated as JPPD Cam 2, at approximately 1318hrs where he disrobed and laid face down on a massage table. An Asian female, previously identified as the owner of the business, Hua Zhang (A/F, 12/13/60) entered the room at approximately 1320hrs and began to massage Male 15's back and buttocks. At 1409hrs Male 15 turned over onto his back and the massage continued. At 1417 hrs Zhang began to manually manipulate Male 15's penis. This continued until 1421hrs at which time Male 15 ejaculated. Zhang then wiped his penis and stomach with a white cloth. At 1423hrs the male put on a robe and he and Zhang left the room. Male 15 returned to the room at 1432hrs and got dressed. Male 15 handed Zhang cash that is folded up, and left the room at 1436 hrs.

January 20th, 2019, 1630hrs-1706hrs
Room Surveillance: Det. B. Jordan #405
Room Camera # JPPD Cam 2

Defendant: Male 16 beard, blue long sleeve shirt, khaki pants

At approximately 1630hrs, Male 16 entered the business, approached the front desk and paid cash for services to an Asian female who wore a dark jacket, black yoga pants, a smart watch and black sneakers. Male 16 entered a room, designated as JPPD Cam 2, completely undressed and laid face down on the table. An Asian female, who wore a white t-shirt with a print on the front and black Reebok yoga pants, entered the room and began massaging Male 16. She dimmed the lights. Male 16 turned over onto his back, and laid face up. Male 16 touched his penis. The Asian female bent over and lowered her head over Male 16's genital region. While reaching toward Male 16's genital region, the Asian female moved her arms back and forth, and Male 16 reached up her shirt. She wiped off Male 16's genital region with white towels. At approximately 1706hrs,

Male 16 paid the Asian female in cash, and left the room.

January 20th, 2019, 2010hrs – 2109hrs
Room Surveillance: Det. B. Jordan #405
Room Camera # JPPD Cam 3

Defendant: Male 17, gray hair, orange jacket, dark pants.

At approximately 2010hrs, Male 17 entered the business, approached the front desk and paid Lei Wang (A/F 5/20/73), who was behind the counter, for services utilizing a credit/debit card which was captured on JPPD Cam 5. Wang escorted Male 17 to a room, designated as JPPD Cam 3. The two hugged, and Wang left the room. Next, Male 17 completely undressed and laid face up on the table. A second Asian female, who wore a white t-shirt with a print on the front and black Reebok yoga pants, entered the room and began massaging Male 17. She dimmed the lights. The Asian female removed her shirt, pulled down her pants, and lay down on the table next to Male 17. They kissed and touched each other's genital regions. Male 17 touched the Asian female's breasts. At approximately 2054hrs, the Asian female turned the lights on and manually manipulated Male 17's genitals. At approximately 2059hrs, she wiped off Male 17's genital region with white towels. At 2108hrs, Male 17 paid the Asian female in cash and exited at approximately 2109hrs.

Monday, January 21st, 2019, 1149hrs – 1232hrs
Room Surveillance: Sgt. M. Lilienfeld #220
Room Camera # JPPD Cam 3

Defendant: Male 18, bald head, long sleeve blue or grey shirt, blue jeans.

At approximately 1149hrs, Male 18 entered the business, approached the front desk, and paid Lei Wang (A/F 5/20/73) who was behind the counter for services in cash, which was captured on JPPD Cam 5. Male 18 walked to a room, designated as JPPD Cam 3, completely undressed and laid face down on the table; an unknown tattoo was observed on Male 18's upper right arm. At approximately 1152hrs, an Asian female wearing a white short sleeved shirt and black capris pants, entered the room and began to massage Male 18 over a sheet for several minutes. At approximately 1156hrs, the female removed the sheet and continued the massage. At approximately 1220hrs, the female placed her fingers in Male 18's anus and began cupping his testicles. At approximately 1222hrs, the female began manually manipulating Male 18's penis and testicles; she then exposed her breasts while manually manipulating Male 18's penis. After several minutes, Male 18 ejaculated and the female wiped down Male 18's genitals and stomach with a white towel. At approximately 1230hrs, Male 18 exited the business.

January 21st, 2019, 1154hrs – 1307hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 4

Defendant: Male 19, red jacket, blue shirt, long dark pants.

At approximately 1154hrs, Male 19 entered the spa wearing a red jacket, blue shirt and long dark pants, and paid in cash at the front counter. An Asian female wearing a red shirt and black pants, took the money, put it in a drawer at the front counter, and gave Male 19 change; this was captured on JPPD Cam 5. Male 19 went into a room designated as JPPD Cam 4 and disrobed. At 1203 hours, an Asian female, previously identified as Lei Wang (A/F 5/20/73) entered the room and hugged Male 19, who then laid face down on the table. At 1233 hours, Male 19 got up on his hands and knees and Wang began to manually manipulate his penis and testicles. This went on for several minutes. At 1244hrs the lights in the room went out and Male 19 was no longer visible. At 1303 hours, the lights came back on and Male 19 was observed on his back, covered by a

sheet. He removed the sheet and he was naked. Wang helped him get dressed. Male 19 gave Wang a cash tip and she hugged him again. Male 19 exited the room at approximately 1307hrs.

January 21, 2019, 1451hrs – 1520hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam2

Defendant: Male 20, white long sleeved shirt, dark jeans

At approximately 1451 hrs, a shadow was visible in the lobby area, identified as JPPD Cam 5. At 1452 hrs, Male 20, who was wearing a white long sleeved shirt and dark pants, walked into a room designated as JPPD Cam 2. Male 20 gave an Asian female cash and she brought him back change. Male 20 then disrobed and laid face down on the table. At 1454hrs, an Asian female previously identified as Shen Mingbi (A/F, 07/19/60), entered the room and began massaging Male 20. At 1503 hours, Mingbi rubbed Male 20's testicles and massaged his penis while he laid on his stomach. At 1505 hours, Male 20 turned over and Mingbi began manipulating his penis, while her head was down over his penis. This continued for several minutes. Male 20 tried to pull Mingbi toward him several times, and she slapped his hands away. At 1508hrs, Mingbi pulled her pants down and Male 20 put his hand on her buttocks. She put her mouth on his penis. At 1511hrs, Male 20 began rubbing Mingbi's vagina. She then pushed him down and began rubbing his penis while he rubbed her vagina. At 1514hrs, Male 20 ejaculated and Mingbi wiped his genitals and stomach area with a white cloth; she also gave him a cloth to wipe his hands. At approximately 1518hrs, Male 20 got dressed and left the room with Mingbi. At approximately 1520hrs, Male 20 and Mingbi were observed back in the room. Mingbi had cash in her hand. The two then exited the room.

January 21st, 2019, 1445hrs – 1548hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 4

Defendant: Male 21, black sweater with red and black on it, jeans.

At approximately 1445hrs, Male 21 entered the spa wearing a black sweater with red and black on it and jeans. Male 21 approached the front counter and paid an Asian female, previously identified as Lei Wang (A/F 5/20/73), for services in cash. Wang took the money, put it in the register, and gave Male 21 change, which was captured on JPPD Cam 5. At approximately 1447, Male 21 entered into a room designated as JPPD Cam 2, disrobed, and laid face down on the table. An Asian female wearing a red/pink shirt, entered into the room and began massaging Male 21's back and buttocks. At approximately 1537hrs, Male 21 turned over onto his back and the Asian female began to manually manipulate his penis. At some point her head was observed to be by his penis while he had his hand up her shirt. This continued for several minutes. At approximately 1544hrs, the Asian female began wiping Male 21's genitals and stomach area with a white cloth. At 1547hrs, Male 21 got dressed and gave the Asian female a cash tip. Male 21 left the business at approximately 1548hrs.

January 21st, 2019, 1851hrs – 1936hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 2

Defendant: Male 22, long sleeved shirt, baseball cap and blue jeans.

At approximately 1851hrs, Male 22 entered the spa. Male 22 paid an Asian female in cash at the front desk. The Asian female put the cash in the drawer and gave Male 22 change, which was captured on JPPD Cam 5. Male 22 went into a room designated as JPPD Cam 2 and removed all of his clothing. He put on a robe and he left the room with an Asian female. At approximately 1902hrs, Male 22 and the Asian female returned to the room. Male 22 was naked and laid face down on the table. The Asian female began massaging Male 22's back and buttocks. At 1922hrs, the Asian female began touching Male 22's testicles and putting her fingers in the crack of his buttocks. At 1928hrs, Male 22 turned over and the Asian female began rubbing his penis and testicles. At 1930hrs Male 22 ejaculated, and the Asian female wiped his penis and stomach with a white cloth. Male 22 got dressed and gave the Asian female cash. She gave him change, and he left at 1936hrs.

January 21st, 2019, 1652hrs -1825hrs
Room Surveillance: Det. D. Hirsch #402
Room Camera # JPPD Cam 4

Defendant: Male 23, blue long sleeved shirt, light pants.

At approximately 1652 hours, Male 23 entered the spa wearing a blue long sleeved shirt and light pants. He paid with a credit card at the front counter. An Asian female, previously identified as Lei Wang (A/P 5/20/73), took the card and processed the transaction, which was captured on JPPD Cam 5. Male 23 went into a room designated as JPPD Cam 4 and removed all of his clothing. He laid face down on the table. Wang began massaging Male 23's back and buttocks. At 1753 hours, Wang put her hand in the crack of the Male 23's buttocks and began rubbing his testicles. This continued for several minutes. Wang began putting her fingers in Male 23's anus repeatedly. She also rubbed his testicles. At 1759 hours, Wang began wiping the male's buttocks and legs. The lights then went out in the room, and the male was not visible. At 1805 hours, Male 23 was seen on his back with a towel over himself. At 1825 hours, the lights in the room came on. Male 23 took the towel off of himself and he was naked. He then got dressed and gave Wang a cash tip. He left the room at 1825 hours.

January 22nd, 2019, 0957hrs-1057hrs
Room Surveillance: Det. C. Cook #404
Room Camera # JPPD Cam 2

Defendant: Male 24, yellow shirt, khaki shorts.

At approximately 0957hrs, Male 24 entered the listed establishment and paid for services at the front desk utilizing a credit/debit card. Next, Male 24 entered the room, designated as JPPD Cam 2, completely undressed and laid down on the table. An Asian female employee entered the room and began massaging Male 24. Next Male 24 turned over, face up, and the Asian female employee began manipulating Male 24's genitals. Next, an Asian female employee began to clean Male 24's genital area with a towel. At 10:57am Male 24 gave the Asian female employee a cash tip and exited the room and business.

January 22nd, 2019, 1201hrs-1415hrs
Room Surveillance: Det. C. Cook #404
Room Camera # JPPD Cam 3

Defendant: Male 25, blue shirt, white shorts.

At approximately 1201hrs, Male 25 entered the listed establishment, spoke briefly with an Asian female

employee, and then exited. At approximately 1239hrs, Male 25 again entered the business and paid for services at the front desk utilizing cash, captured on JPPD Cam 5. Next, Male 25 entered a room, designated as JPPD Cam 3, completely undressed and laid down on the table. An Asian female employee entered the room and began massaging Male 25. Next Male 25 turned over, face up, and the Asian female employee began manipulating Male 25's genitals. Next, the Asian female employee placed her head and face very near to Male 25's genitals. Next, the Asian female employee began to clean Male 25's genital area with a towel. At approximately 1415hrs, Male 25 dressed himself and exited the room and business.

January 22nd, 2019, 1054hours – 1155hours
Room Surveillance: Det. Jared Kenerson #406
Room Camera # JPPD Cam 3

Defendant: Male 26, wearing a purple sweater vest with white sleeves and light colored shorts.

At approximately 1054hrs, Male 26 entered the business and paid an Asian female who is behind the front counter, previously identified as Shen Mingbi (A/F, 07/19/60), cash for services. Male 26 received cash back on the payment. Male 26 then entered a room identified as JPPD Cam #3 at approximately 1055hrs. He disrobed and laid face down on the massage table. At approximately 1056hrs, Mingbi entered the room and began to massage Male 26.

At approximately 1140hrs, Male 26 flipped over on the table and laid on his back. At approximately 1142hrs, Mingbi grabbed the male's penis. At approximately 1143hrs, Male 26 put his right hand down the back side of the female. At approximately 1143 hours Mingbi grabbed Male 26's penis, at which point he swung his legs off the massage table and sat at the edge of the table. At approximately 1144hrs, Mingbi's right arm and hand were observed to be between her and Male 26, reaching downward. Male 26 reached his right hand toward her buttocks area. Mingbi leaned over and laid on top of Male 26. Mingbi's buttocks were bare.

At approximately 1152hrs Mingbi manually manipulated Male 26's penis. Mingbi wiped Male 26's penis with a towel. Male 26 then got dressed, took out his billfold and handed Mingbi cash.

While reviewing the covert surveillance video for Friday, January 18th, 2019, Hua Zhang and Lei Wang are seen sitting behind the front counter of the business for several hours from approximately 1930hrs until 00015hrs on Saturday, January 19th, 2019 going over documents for the business; they are seen looking at receipts, writing on legal pads and are using calculators and their cell phones.

I received a search warrant for the installation of a tracking device for Zhang's vehicle on Saturday, January 19th, 2019. Zhang's van was located at in the parking area for her Jupiter residence, located at 300 North A1A, Ocean Parks Condo's in Jupiter. At approximately 2030hrs on the 19th, Agent Naccaratto #311 installed the tracking device. The tracking device was monitored covertly from January 19th, 2019 until present day.

While reviewing the GPS location log for Sunday, January 20th, 2019, the GPS log shows Zhang's vehicle left her residence in Jupiter at approximately 0800hrs and remained at the target business for most of the day. The vehicle left the target business at approximately 1925hrs and traveled north to Wang's residence, located at 6044 Turn Leaf Trail in Hobe Sound. Zhang's vehicle arrived at Wang's residence at approximately 2056hrs and remained there until approximately 2327hrs, at which time it left and traveled to 8389 S.E. Woodcrest Place; the vehicle remained at this location until the following morning. On Monday

January 21st, 2019, Hua Zhang's vehicle left the Woodcrest residence and traveled to Sequoia Apple

Day Spa, located at 10447 S.E. Federal Highway, in Hobe Sound, Martin County Florida. This spa has been identified by the Martin County Sheriff's Office as another illicit massage parlor. The State of Florida Division of Corporations Records show the business registered as Sequoia Apple Day Spa Inc. which was filed and became active on May 10th, 2018, with the registered agent listed as Lei Wang; it should be noted, Zhang was listed as a VP of the business on the articles of incorporation until September 2018. Reviewing the GPS data from the covert surveillance equipment of both Hua Zhang and Lei Wang's vehicle shows both vehicles travel to the Woodcrest Residence prior to traveling to both spa locations several times during the week of January 21st, 2019. The data also shows both vehicles arriving at the Woodcrest residence in the late evening hours, after the close of business of both spas, several times during the week as well.

During the course of the covert surveillance operation, criminal charges were developed for approximately 26 male customers who paid money to Hua Zhang, the president of the corporation for the business known as Orchids of Asia Day Spa or Lei Wang, the self-admitted manager of Orchids of Asia Day Spa or other employees of Orchids of Asia Day Spa in exchange for Zhang, Wang or the other employees to perform sexual acts on them, thus committing crimes of prostitution.

During this investigation, myself or other law enforcement officers working with me, developed the following additional information and evidence proving the crimes in this case.

A wage and hour report was collected from the State of Florida for both Zhang and Wang. This report documents the wages reported by a business for its employees and/or owners and managers. This report documents this earned money by quarters of the year. For the quarter ending December, 2018, Zhang reported earnings only from the Orchids of Asia Spa and that amount reported was \$6,500. The same type of report was obtained for Wang, and the only wages earned by Wang during that period ending December 2018, were \$4,500.00, paid to her by Orchids of Asia Spa.

Based on Zhang self-reporting her income from the Orchids of Asia Spa and Wang self-reporting her income from the Orchids of Asia Spa, both for the period of time that your Affiant and other law enforcement agencies had developed evidence that the majority of the income generated by the Orchids of Asia Spa was a result of prostitution crimes and Zhang and Wang were not only willing participants in committing crimes of prostitution inside the spa but also employed others for that purpose, it is clear Zhang and Wang were deriving support from the money generated from the prostitution crimes being committed by and through the Orchids of Asia Spa.

Additionally, your affiant determined that the Comcast cable bill and the Florida Power and Light bill for the Orchids of Asia Day Spa were being paid by this business. Therefore, Zhang is deriving support for the business of which she is president through the crimes of prostitution she is engaging in and perpetuating through her employees.

Based on the above described investigation, there is probable cause to believe the defendant Hua Zhang did reasonably believe or know another person was engaged in prostitution and did live or derive support or maintenance in whole or in part from what was believed to be the earnings or proceeds of such person's prostitution, contrary to Florida Statute 796.05(1) and (2)(a).

Based on the above described investigation, there is probable cause to believe the defendant Hua Zhang did solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation, contrary to Florida Statute 796.07(2)(f) and (5)(a)1.

Based on the above described investigation, there is probable cause to believe the defendant Hua Zhang did let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it was to be used for

the purpose of lewdness, assignation, or prostitution, contrary to Florida Statute 796.06(1) and (2)(a).

Based on the above described investigation, there is probable cause to believe the defendant Hua Zhang did own, establish, maintain, or operate a place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution, contrary to Florida Statute 796.07(2)(a).

Based on the above described investigation, there is probable cause to believe the defendant Hua Zhang did commit, engage in, or offer to commit, prostitution, lewdness, or assignation, contrary to Florida Statute 796.07(2)(e) and (4)(a)1.

ADRIAL	SWORN AND SUBSCRIBED BEFORE ME	
	NOTARY PUBLIC/CLERK OF THE COURT/POLICE OFFICER	SIGNATURE OF THE ARRESTING/INVESTIGATING OFFICER
	February 15 th , 2019	Detective A. Sharp #412/1101
	DATE	NAME OF OFFICER (PLEASE PRINT)
		February 15 th , 2019
		DATE

DISTRIBUTION: COURT - 1 COPY STATE ATTORNEY - 1 COPY AGENCY - 3 COPIES

COMPOSITE EXHIBIT H

IN THE COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA

STATE OF FLORIDA

Case No. 19000552MMAXMX

-VS-

KEITH WILLIAM ALLAN
Defendant(s).

ORDER DENYING MOTION FOR PROTECTIVE ORDER

THIS CAUSE having come before the Court on the Defendant's Emergency Motion for Protective Order and the Court having reviewed the motion makes the following findings:

1. The Motion is filed as a Protective Order under Florida Rule of Criminal Procedure 3.220 which protects a witness from invasion of privacy and undue embarrassment as it relates to a deposition.
2. This is a criminal case. The motion asks for a protective order against the named defendant in the criminal case, citing the defendant's case number.
3. By definition, the Defendant is a named party to the action, not merely a witness. Further, the State is prohibited from compelling a criminal defendant to be compelled to give a deposition against himself under established Constitutional safeguards without giving immunity to the Defendant.
4. The Court is unaware of an offer of immunity to the Defendant.

It is therefore ORDERED AND ADJUDGED that the Defendant's Emergency Motion for Protective Order is denied.

DONE AND ORDERED in Martin County, Stuart, Florida this 2nd day of April, 2019.


Signed by KATHLEEN H. ROBERTS in 19000552MMAXMX
on 04/02/2019 10:58:44 qZd3AN7A
KATHLEEN H. ROBERTS
COUNTY COURT JUDGE

CC:
ASA Nirlaine Smartt
Jonathon Alford, counsel for the Defendant

IN THE COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA

STATE OF FLORIDA

Case No. 19000538MMAXMX

-VS-

GAIL WALKER SCHAMBACK
Defendant(s).

_____ /


ORDER DENYING MOTION FOR PROTECTIVE ORDER

THIS CAUSE having come before the Court on the Defendant's Emergency Motion for Protective Order and the Court having reviewed the motion makes the following findings:

1. The Motion is filed as a Protective Order under Florida Rule of Criminal Procedure 3.220 which protects a witness from invasion of privacy and undue embarrassment as it relates to a deposition.
2. This is a criminal case. The motion asks for a protective order against the named defendant in the criminal case, citing the defendant's case number.
3. By definition, the Defendant is a named party to the action, not merely a witness. Further, the State is prohibited from compelling a criminal defendant to be compelled to give a deposition against himself under established Constitutional safeguards without giving immunity to the Defendant.
4. The Court is unaware of an offer of immunity to the Defendant.

It is therefore ORDERED AND ADJUDGED that the Defendant's Emergency Motion for Protective Order is denied.

DONE AND ORDERED in Martin County, Stuart, Florida this 2nd day of April, 2019.


Signed by KATHLEEN H. ROBERTS in 19000538MMAXMX
on 04/02/2019 11:15:45 V-UKgGJn
KATHLEEN H. ROBERTS
COUNTY COURT JUDGE

CC:

ASA Nirlaine Smartt

Jonathon Alford, counsel for the Defendant

IN THE COUNTY COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA

STATE OF FLORIDA

Case No: 19MM562

Plaintiff,

vs,

CHARLES MARSHALL

Defendant.

ORDER ON MOTION FOR PROTECTIVE ORDER

THIS CAUSE having come before the Court on the Defendant's Emergency Motion for Protective Order and the Court having reviewed the motion makes the following findings:

1. The Motion is filed as a Protective Order under Florida Rule of Criminal Procedure 3.220 which protects a witness from invasion of privacy and undue embarrassment as it relates to a deposition.
2. This is a criminal case. The motion asks for a protective order against the named defendant in the criminal case, citing the defendant's case number.
3. By definition, the Defendant is a named party to the action, not merely a witness. Further, the State is prohibited from compelling a criminal defendant to be compelled to give a deposition against himself under established Constitutional safeguards without giving immunity to the Defendant.
4. The Court is unaware of an offer of immunity to the Defendant.

It is therefore ORDERED AND ADJUDGED that the Defendant's Emergency Motion for Protective Order is denied.

DONE and ORDERED at Stuart, Martin County, Florida, this 3rd day of April, 2019.


DARREN STEELE
COUNTY COURT JUDGE

CC:

ASA Nirlaine Smartt
Jonathan Alford, Defense Counsel